

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 522 OF 2017

(Arising out of SLP (Criminal) No. 7680 of 2015)

JAI PRAKASH VERMA & ORS. ... Appellants

VERSUS

STATE OF U.P. & ANR. ... Respondents

O R D E R

Leave granted.

Respondent No. 2 is the wife of Sandip Verma. Appellant Nos. 1 and 2 are the parents of Sandip Verma (parents-in-laws of respondent No. 2). Appellants No. 3 is the brother and appellant Nos. 4 and 5 are the sisters of Sandip Verma (brother-in-law and sisters-in-law of respondent No. 2).

Respondent No. 2 instituted a complaint case No. 911 of 2015 under Sections 323, 354, 498-A, 504, 506 of the Indian Penal Code (IPC) and under Section 3/4 of the Dowry Prohibition Act at Police Station Kotwali Shahar, District Mau, Uttar Pradesh against the appellants. It is alleged in the complaint that respondent No. 2 was subjected to cruelty as the demands of dowry were not met to the satisfaction of the in-laws.

After recording preliminary evidence, the Chief Judicial Magistrate, Mau, issued summons to initiate proceedings against the appellants. The following order was

passed:

"The petitioner and the witnesses for the petitioner in their statements on oath have supported the statements made in the petition. On perusal of the statements on oath of the investigating officer, petitioner, and witnesses the court is of the view that prima facie there is sufficient grounds exists to start proceedings against the respondent Rohit Verma under Section 323, 354, 498A, 504, 506 of the IPC and 3/4 of the Dowry Prohibition Act and the respondents Jay Prakash Verma, Manju Devi, Shalu Verma and Neha Verma under Section 323, 498A, 504, 506 of the IPC and 3/4 of the Dowry Prohibition Act. In file no Medical report has been enclosed. On the basis of the evidence available on the record there is no sufficient ground exist to start proceedings under Section 307 IPC against the respondents.

ORDER

Summon is issued to initiate proceedings against the accused Rohit Verma under Section 323, 354, 498A, 504, 506 of the IPC and 3/4 of the Dowry Prohibition Act and the accused Jay Prakash Verma, Manju Devi, Shalu Verma and Neha Verma under Section 323, 498A, 504, 506 of the IPC and 3/4 of the Dowry Prohibition Act. The petitioner is required to take necessary steps within seven days. The record be called on 9.8.2015 for the appearance of the accused persons."

The appellants challenged the aforesaid summoning order by filing petition under Section 482 of the Code of Criminal Procedure (Cr.P.C.), in the High Court of Judicature at Allahabad. It was submitted that the complaint filed by respondent No. 2 against the appellants was nothing but a counterblast to the FIR being Case Crime No. 415/2011 registered under Sections 420, 406, 411 IPC with Police Station Hazratganj, District Lucknow and also lodgment of NCR by the appellants being NCR No. 56 of 2014 registered under

Sections 504, 506 and 427 IPC, with Police Station Kotwali, District Mau.

It was submitted in this behalf that respondent No. 2 had instituted a false complaint with the fabricated allegations in order to settle grudge and also to take revenge from appellant No. 1. It was also submitted that a bare perusal of the complaint filed by respondent No. 2 would reveal that it was based on after-thought allegations.

Pertinently, while lodging this complaint, respondent No. 2 has not named her husband in the complaint and there is no whisper of demand of dowry from husband. In fact, there are cordial relations between husband and wife. Such allegations are made only against parents-in-law, brother-in-law and sisters-in-law.

It was submitted by the appellants that allegations against the appellants were false on the face of it when respondent No. 2 was admittedly staying separately from the family of the appellants, which is a matter of record and has been admitted by the husband of respondent No. 2 in Civil Suit No. 439 of 2014 pending in Civil Court, Mau, Uttar Pradesh. In the petition filed by the appellants, it was also stated that respondent No. 2 and her husband are notorious characters and both of them hatched a conspiracy to defraud a company to the tune of Rs.5 lakhs for which FIR No. 415 of 2011 was registered under Sections 420, 406 and 411

IPC. Likewise, NCR No. 56 of 2014 was lodged under Sections 504, 506, 427 IPC with Police Station Kotwali Nagar, District Mau, Uttar Pradesh, wherein investigation was conducted and *challan* was filed in the Court of Law. Finding no substance in the allegations, the High Court has dismissed the petition filed by the appellants without dealing with the aforesaid contentions. Stereotype order is passed with the observations that at this stage, case for quashing has not been made out. Operative portion of the order is as under:

"The contention of the counsel for the applicants is that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. He pointed out certain documents and statements in support of his contention.

From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicants. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of *R.P. Kapur Vs. State of Punjab*, A.I.R. 1960 S.C. 866, *State of Haryana Vs. Bhajan Lal*, 1992 SCC (Cr.) 426, *State of Bihar Vs. P.P. Sharma*, 1992 SCC (Cr.) 192 and lastly *Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another* (Para-10) 2005 SCC (Cr.) 283. The disputed defence cannot be considered at this stage.

The prayer claimed is refused."

This order is subject matter of challenge in the instant appeal.

We have heard learned counsel for the parties. The

following facts emerge on record in respect of which there is no dispute.

- (a) Criminal Case No. 415 of 2011 dated 27.07.2011 under Section 420, 406, 411 IPC has been registered against respondent No. 2 and her husband Sandeep Verma on the allegations already mentioned above.
- (b) Another case, i.e., NCR No. 56 of 2014 dated 09.04.2014 is registered against the husband of respondent No. 2 and two more persons under Sections 504, 506, 427 IPC on the allegations already stated hereinabove.

These two cases were filed at the instance of appellant No. 1 much prior in time. The complaint in question, on the other hand, was lodged by respondent No. 2 on 29.03.2015.

- (c) It is not in dispute that respondent No. 2 and her husband are living separately from the appellants and there have been *inter se* litigations between them.

As per the averments made in the complaint filed by respondent No. 2, she married Sandeep Verma four years ago which was solemnised with the consent of the paternal and maternal grandparents of Sandeep Verma due to which her father-in-law and mother-in-law were annoyed with her and her husband Sandeep Verma and used to demand dowry. It is also alleged that the

appellants asked her to bring Rs.5 lakhs from her father as dowry else she would be killed. It is also alleged that these people had beaten her several times and Rohit even molested her.

Having regard to the totality of circumstances, the aforesaid allegations appear to be totally false. Even as per the complainant, her parents-in-law did not accept their marriage and are living separately. The complainant and her husband are on good terms. In a situation like this allegations that parents-in-law as well as brother-in-law and sisters-in-law had been beating respondent No. 2 or demanding money from her when they are not even living together, is far fetched and a totally make-belief story. This becomes all the more clear and falsehood stands exposed when it is seen in context of various disputes between the appellants (particularly appellant No. 1) on the one hand, and respondent No. 2 and husband of respondent No. 2 on the other hand. There is no doubt in our mind that a false case is foisted upon the appellants just to settle scores as appellant No. 1 has filed case against husband of respondent No. 2.

In judgment of '*State of Haryana v. Bhajanlal* [1992 (Suppl.) 1 SCC 335], this Court has laid down the following categories which are to be kept in mind while entertaining petition under Section 482 Cr.P.C. for quashing of

summons/charge etc.:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the

concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The present case clearly falls in category 5 and 7 above.

This Court has stated time and again that provisions of Section 498-A IPC are misused and exaggerated versions of incidents are reflected in a large number of cases. [See (2010) 7 SCC 667, (2010) 11 SCC 749 and (2013) 5 SCC 226]. This case clearly appears to be in that bracket.

Resultantly, this appeal is allowed and the summoning order passed by the Trial Court in the complaint filed by respondent No. 2 is hereby quashed.

....., J.  
[ A.K. SIKRI ]

....., J.  
[ ASHOK BHUSHAN ]

New Delhi;  
March 10, 2017.

ITEM NO.43

COURT NO.8

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No. 7680/2015

(Arising out of impugned final judgment and order dated 11/08/2015 in CRLA No. 22759/2015 passed by the High Court of Judicature at Allahabad)

JAI PRAKASH VERMA & ORS.

Petitioner(s)

VERSUS

STATE OF U.P. & ANR.

Respondent(s)

(With appln. (s) for exemption from filing O.T.)

Date : 10/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Dushyant Parashar, Adv.

For Respondent(s)

Mr. V. K. Shukla, Adv.  
Mr. Anuvrat Sharma, Adv.  
Ms. Alka Sinha, Adv.

Ms. Nidhi, Adv.

Mr. Gaurav Bhatia, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Nidhi Ahuja)  
Court Master

(Mala Kumari Sharma)  
Court Master

[Signed order is placed on the file.]