

Court No. - 81

Case :- APPLICATION U/S 482 No. - 3800 of 2021

Applicant :- Anil Sharma And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Viajy Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan,J.

Heard learned counsel for the applicants and learned A.G.A. for the State.

The present 482 Cr.P.C. application has been filed to quash the charge sheet in Case No. 29 of 2019, arising out of Case Crime No. 25 of 2018 (State vs. Anil Sharma) charge sheet submitted on 09.10.2018, under sections 498-A, 323, 504, 506 IPC and 3/4 Dowry Prohibition Act, Police Station Chaubepur, District Varanasi, cognizance taken on 14.01.2019, charge sheet no. 1, pending in the Court of 3rd Judicial Magistrate, Varanasi.

It has been submitted by learned counsel for the applicant that the applicant no.1 is husband of opposite party no.2. Applicant nos. 2 and 3 are father-in-law and mother-in-law of opposite party no. 2 respectively. It has also been submitted that that separate charge sheet has been filed against the husband. It is further submitted that except the husband of opposite party no.2, the allegations levelled against the applicants are general and vague with no specificity. Learned counsel for the applicants has placed reliance on the judgment of the Apex Court in the case of *Geeta Mehrotra vs. State of U.P. and others reported in 2012 (10) ADJ 464*.

Similarly in *Taramani Parakh vs. State of Madhya Pradesh and others, reported in (2015) 11 SCC 260*, the Apex Court again struck a note not to indiscriminately quash the proceedings against the relatives of the husband in a matrimonial dispute on the strength of *Geeta Mehrotra (supra)*. *Paragraph-12 of Taramani Parakh (supra)* reads as under:-

"12. In *Kailash Chandra Agrawal & Anr. vs. State of U.P. & Ors.* (Criminal Appeal No.2055 of 2014 decided on 6.9.2014), it was observed: "9. We have gone through the FIR and the criminal complaint. In the FIR, the appellants have not been named and in the criminal complaint they have been named without attributing any specific role to them. The relationship of

the appellants with the husband of the complainant is distant. In ***Kans Raj vs. State of Punjab & Ors. [(2000) 5 SCC 207]***, it was observed:-

"5.....A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in absence of any specific role and material to support such role.

The parameters for quashing proceedings in a criminal complaint are well known. If there are triable issues, the Court is not expected to go into the veracity of the rival versions but where on the face of it, the criminal proceedings are abuse of Court's process, quashing jurisdiction can be exercised. Reference may be made to ***K. Ramakrishna and Ors. vs. State of Bihar and Anr. [(2000) 8 SCC 547]***, ***Pepsi Foods Ltd. and Anr. vs. Special Judicial Magistrate and Ors. [(1998) 5 SCC 749]***, ***State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors. [(1992) Suppl 1 SCC 335]*** and ***Asmathunnisa vs. State of A.P.***"

In view of the above, the matter requires consideration in respect of the applicants. Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A.

Issue notice to opposite party no.2 returnable at an early date.

Opposite party no.2 may file counter affidavit within four weeks. Learned A.G.A. may also file counter affidavit within the same period. Rejoinder affidavit may thereafter be filed within two weeks.

List immediately after expiry of the aforesaid period before appropriate Bench.

Till the next date of listing, no coercive action shall be taken against the applicants in the aforesaid case.

However, the prayer in respect of the applicant no. 1 (husband) is refused. It is directed that if the applicant no. 1 appears and surrenders before the Court below within one month from today and applies for bail, his prayer for bail shall be considered and decided expeditiously in view of the settled law laid by the Division Bench of this Court in ***Brahm Singh and Ors. Vs. State of U.P. and Others, reported in 2016 (7) ADJ 151.***

For a period of one month from today or till the applicant no. 1 surrenders and applies for bail whichever is earlier, no coercive action shall be taken against him. However, in case, he does not appear before the Court below within the aforesaid period, coercive action shall be taken against him.

This application at the behest of applicant no. 1 stands disposed of.

Order Date :- 18.2.2021

Monika