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SLP(Crl.)No. 1735 OF 2004
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.132 OF 2005
(arising out of SLP(Crl.)1735/2004)

Savita ... Appellant

Versus

State of Rajasthan & others... Respondents

With
Criminal Appeal No.144/2005 @ SLP(Crl.)No.4945/2004

O R D E R

Heard learned counsel for the petitioner and second respondent who argued on behalf of himself and the other respondents also.

Delay condoned.

Leave granted.

The appellant, Savita in one of the appeals herein filed a complaint alleging offences punishable under Sections 498A and 406 IPC against the respondents herein which was registered as FIR No.33 dated 1.6.2001 by the Mahila Police State, Bikaner. The said FIR was challenged by the respondents herein before the High Court of Judicature for Rajasthan at Jodhpur, which by the impugned order proceeded to quash the FIR holding that the FIR prima facie does not disclose any cognizable offence against any of the respondents herein and allegations taken in its entirety ex facie is vague in nature.

: 2 :

The appellant-Savita in her complaint had specifically stated that among other things "the husband of the complainant also started to abuse her and beat her and all the remaining accused used derogatory language to the appellant and used to say that her father and mother did not give anything to them". She had further complained that "two years ago in an evening accused, Kamlesh, Bhagyawati, Shankuntala, Anamika and Bhanwari Devi gave beating to the appellant, they snatched her heirs and tore the clothes and also abused her". She further stated that they had demanded Rs.5 lacs as dowry. It is in the factual basis the complaint in question was filed which was registered by the Mahila Police Station, Bikaner as stated above.

The High Court while entertaining the petition under Section 482 of the Code of Criminal Procedure took into consideration certain statements made by the appellant-Savita in a divorce proceeding between her and first respondent and based on such evidence, as if it was sitting in an appeal, proceeded to give a finding that it does not disclose any cognizable offence against any of the respondents herein in a Section 482 petition. We think that this was too pre-mature a stage for the High Court to give such a finding when even the investigation had not started and the said agency had no occasion to find out whether there is material to file a charge sheet or not.

: 3 :

The second respondent relied upon a judgment of this Court in the case of V.M. Shah vs. State of Maharashtra & Anr., 1995(5) SCC 767 wherein this Court while entertaining an appeal against the conviction under Section 633 of the Companies Act had held that a finding given by the civil court is binding on the criminal court. We have no quarrel with the said proposition, but we are of the opinion that such consideration of a finding of the civil court can not be done by a court entertaining a criminal petition for quashing an FIR wherein an investigation has not even started.

The second respondent further contended that subsequently in the divorce proceeding the Court has given a conclusive finding that the allegation made by the appellant-Savita is not established, but that is a finding again given by the civil court subsequent to the impugned judgment in this case. Even otherwise as held by us hereinabove that is a material to be taken note of by the investigating agency or the court before whom the charge sheet is filed. The learned counsel then sought to place reliance on various judgments of this Court like in State of West Bengal vs. Sapan Kumar, 1982(3) SCR 121, Madhavrao Jiwali Rao Scindia vs. Sambhajirao Chandro jirao, 1988 (2) SCR 930 etc. We think on the facts of this case and the stage at which the challenge is made in this case under Section 482 of Criminal Procedure Code these judgments do not help the respondent in defending the impugned order.

For the reasons stated above, we allow these appeals and quash the impugned order of the High Court and direct the Mahila Police Station, Bikaner to proceed with the investigation of the c

ase FIR 33 dated 1.6.2001.
The appeals are allowed.

.....J.
(N. SANTOSH HEGDE)

.....J.
(S.B. SINHA)

NEW DELHI,
JANUARY 18, 2005.
ITEM No.6

Court No. 2

SECTION II
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 1735/2004

(From the judgement and order dated 07/10/2003 in SBCRMP 487/01
of The HIGH COURT OF RAJASTHAN AT JODHPUR)

SAVITA

Petitioner (s)

VERSUS

STATE OF RAJASTHAN & ORS. Respondent (s)
(With Appln(s). for c/delay in filing SLP and permission to place addl.
documents on record and With Office Report and for final disposal)
With
SLP(Crl.)No.4945/2004 (with appln.(s) for c/delay in filing SLP and
c/delay in refiling SLP and exemption from filing OT and office report
and for final disposal)

Date : 18/01/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s)Mr. Rajendra Singhvi, Adv.
Ms. Madhurima Tatia, Adv.
Mr. Ashok Kumar Singh,Adv.

Mr. Aruneshwar Gupta, AAG.
Mr. Naveen Kumar Singh, Adv.
Ms. Shivangi, Adv.

For Respondent (s)Mr. S.D. Rajpurohit (R.2-in-person)
Mr. K.S. Rana,Adv.

Mr. Manish Kumar, Adv.
Mr. Ansar Ahmad Chaudhary, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the petitioner and second respondent who argued on behalf of himself
and the other respondents also.

Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed order.

(PAWAN KUMAR)
COURT MASTER

(PREM PRAKASH)
COURT MASTER

(signed order is placed on the file)