

ITEM NO.105

COURT NO.2

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

CRIMINAL APPEAL NO(s). 293 OF 2006

GAUTAM DHARA & ANR.

Appellant (s)

VERSUS

STATE OF RAJASTHAN & ANR.

Respondent(s)

(With appln(s) for directions and office report)

Date: 16/06/2011

This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE SWATANTER KUMAR
[VACATION BENCH]

For Appellant(s)

Mr. Debasis Misra, Adv.

For Respondent(s)

Ms. Madhurima Tatia, Adv.
Mr. Ashok Kumar Singh, Adv.

Dr. Manish Singhvi, AAG.
Mr. Milind Kumar, Adv.

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

The appeals succeeds and is allowed for the
reasons recorded in the signed order.

(KALYANI GUPTA)
COURT MASTER

(INDU SATIJA)
COURT MASTER

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[SIGNED ORDER IS PLACED ON THE FILE.]

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 293 of 2006

GAUTAM DHARA & ANR.

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APPELLANTS

VERSUS

STATE OF RAJASTHAN & ANR.

....

RESPONDENTS

O R D E R

1. This criminal appeal has been filed against the judgment and order dated 22nd December, 2004 passed by the High Court of Judicature for Rajasthan at Jodhpur in Single Bench Criminal Revision No. 424 of 2007 quashing the complaint under Section 420/34 of the Indian Penal Code against six accused but not against the present appellants.

2. The facts and circumstances giving rise to this case are that the appellants had inter-caste marriage against the wishes of the parents of the appellant No. 2 which was not liked by the family members of the appellant No. 2. The respondent No. 2 who is the

maternal uncle of the appellant No. 2 filed a criminal complaint under Section 420/34 of the Indian Penal

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Code, 1860 on 16th July, 2001 against eight persons including the appellants and the family members of the appellant No. 1 alleging that on 18th March, 2001 the

appellant No. 2 took '2.5 lakhs from him for his

friend and gave cheque of the amount and a receipt.

However, the money was not returned and the cheque

bounced. The Magistrate sent the complaint for

investigation by the police. However, the police

filed a final report on 29th April, 2003, concluding

that the complaint was false.

The respondent No. 2

filed a Protest Petition on 9th September, 2003 and the Magistrate sent the matter for re-investigation. Subsequently, by order dated 5th April, 2004

cognizance was taken by the Magistrate against eight persons. Being aggrieved they approached the High Court filing the revision which has been accepted by the High Court vide judgment and order dated 2nd December, 2004 only in respect of six persons but rejected so far as the appellants are concerned.

3. We have heard Ms. Faraha Yasmeen, learned counsel for the appellant and Dr. Manish Singhvi learned Additional Advocate General for respondent No. 1 and Ms. Madhurima Tatia for respondent No. 2 and perused the record.

4. We are of the considered opinion that t

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conclusion reached by the Magistrate initially that the complaint was false was correct. The proceedings had been initiated only to harass the appellants because the respondent No.2, the maternal uncle of the appellant No. 2 did not like the inter-caste marriage and the father of the appellant No. 2 who is a practising Advocate perhaps could not initiate any legal proceedings. Had it been the case of bouncing of cheque of any liability as alleged in the complaint proper course could have been resorted to the proceedings under the Negotiable Instruments Act rather than filing a private complaint. The proceedings had been initiated with mala fide intentions and just to harass the appellants.

5. In view of the above, the complaint is hereby quashed. The appeal succeeds and is allowed.

.....J
[DR. B.S. CHAUHAN]

.....J
[SWATANTER KUMAR]

NEW DELHI
JUNE 16, 2011.