

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 (Cr1) No(s).3959/2010

(From the judgement and order dated 09/02/2010 in CRLMP No. 25454-M/2007 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

GEETA @ SON DEI

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for PERMISSION TO FILE ADDITIONAL AFFIDAVIT and office report)

Date: 06/05/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.M. PANCHAL
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. Pradeep Kumar Bakshi, Adv.
Mr. Mohan Lal Sharma, Adv.

For Respondent(s) Mr. Manjit Singh, Adv.
Mr. Tarjit Singh, Adv.
Mr. Vikas Sharma, Adv.
Mr. Kamal Mohan Gupta, Adv.

Mr. Brijendra Chahar, Sr. Adv.
Mr. Sanjay Kumar Tyagi, Adv
Mr. Vivek Gupta, Adv.

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

Leave granted.
The Criminal Appeal stands disposed of
in terms of the signed order.

(Neetu Sachdeva)
Sr. P. A.

(Sneh Bala Mehra)
Court Master

(signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 1110 OF 2011
(@ SLP (Cr1) No(s).3959/2010)

GEETA @ SON DEI

Appellant(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

O R D E R

Leave granted.

In this appeal by grant of special leave what is

questioned is legality of judgment dated 9.2.2010 rendered by the learned Single Judge of the High Court of Punjab & Haryana at Chandigarh in Crl. Misc. Petition No.25454-M of 2007 by which the complaint filed by the appellant against respondent Nos. 2 & 3 as well as others is quashed so far as respondent Nos.2 & 3 are concerned and the order dated 26.4.2001 passed by the learned ACJM, Gurgaon summoning them for the offences under Sections 406/498-A/323/506 read with 34 IPC is also quashed.

The respondent Nos.2 & 3 herein are father in law and mother in law respectively of the appellant. The appellant had filed complaint for alleged commission of offences under Sections 406/498-A/323/506 read with 34 IPC against the respondent Nos. 2 & 3 as well as other five accused in the Court of learned ACJM, Gurgaon. The learned Magistrate took into consideration the averments made in

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the complaint as well as the preliminary evidence of the complainant as PW-1 and her witnesses i.e. Subhash Tyagi PW2, Dharam Singh Numberdar PW3, Tej Singh Tyagi PW4 and Om Dutt PW5. On appreciation of the evidence referred to above, the learned ACJM came to the conclusion that the witnesses had corroborated the version of the complainant and prima facie commission of offences punishable under Sections 406/498-A/323/506/34 IPC was made out. In view of this conclusion, the learned Magistrate passed an order dated 26.4.2001 summoning all the accused including respondent Nos.2 & 3 herein for the offences mentioned above.

The record shows that the trial is in process. While the trial was in process, the respondent Nos. 2 & 3 filed a petition in the High Court under Section 482 of the Code of Crl. Procedure, 1973 seeking quashing of the complaint pending before the trial court as well as the summoning order dated 26.4.2001. The High Court by the impugned

judgment has granted the prayers claimed by the respondent Nos.2 & 3 giving rise to the instant appeal.

This Court has heard the learned counsel for the parties. It is well settled by catena of decisions of this Court that while quashing the complaint only the averments made in the complaint should be examined to find

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out whether alleged commission of offences is made out or not. This Court has gone through carefully the complaint filed by the appellant on 23.4.2001 in the Court of learned ACJM, Gurgaon. A fair and reasonable reading of paragraphs 3, 4, 5 & 6 of the complaint prima facie make out the case of commission of offences punishable under Sections 406/498-A/323/506 read with 34 IPC by all the accused including respondent Nos.2 & 3. Therefore, this Court is of the opinion that the High Court committed material error in quashing the complaint filed by the appellant and also in quashing the summoning order dated 26.4.2001 passed by the learned Magistrate.

Under the circumstances, the appeal deserves to be allowed.

For the foregoing reasons, the judgment dated 9.2.2010 rendered by the learned Single Judge of the High Court of Punjab & Haryana at Chandigarh in CrI. Misc. Petition No.25454-M of 2007 quashing the complaint filed by the appellant in respect of the respondent Nos.2 & 3 as well as summoning order dated 26.4.2001 passed by the learned ACJM, Gurgaon is hereby set aside. Both, i.e. the complaint and summoning order are restored on file. It is clarified that the observations made in the present judgment relate to power of the Court to quash the

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complaint and would not affect the trial which has to be decided on appreciation of evidence led by the parties.

Subject to above-mentioned clarification, the appeal stands disposed of.

.....J.
(J.M. PANCHAL)

NEW DELHI
MAY 6, 2011

.....J.
(H.L. GOKHALE)