

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).389-390 OF 2015  
(SLP(CRL.) NOS.9890-9891/2010)

SULTANA BEGUM & ANR. . . . APPELLANT(S)

VERSUS

STATE OF PUNJAB & ORS. . . .RESPONDENT(S)

O R D E R

Heard learned senior counsel for the parties.

Leave granted.

The correctness of the judgment and order dated 17.12.2009, passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Revision Petition Nos. 39 of 2003 and 40 of 2003, allowing the same by quashing the order dated 29.10.2002 passed by the

learned Sessions Judge, Patiala in ordering the framing of charges against the accused under Sections 376, 511, 294, 506 and 107 of the Indian Penal Code, for short 'the Code', on the basis of the First Information Report No. 76 dated 19.02.2002, for short 'the FIR', registered under Section 376, 511, 294, 354, 341, 506, 175, 186, 34, 120B of the Code, at the instance of appellant No. 2 herein, by the Police Station, Sadar, Patiala, has been challenged in the instant appeals urging various legal contentions.

There is no need for us to advert to the various legal contentions urged in these appeals except noting the submissions made by the learned senior counsel for the parties.

Mr. Colin Gonsalves, learned senior counsel appearing for the appellants invited our attention to the complaint filed by appellant no. 2 before the Senior Superintendent of Police, making certain allegations against the respondents herein about the offence alleged to have been committed by them on 28.01.2002 and 18.01.2002 and submitted that after adverting to certain complaints lodged by her on 06.02.2002 and 07.02.2002 against the Vice-Chancellor, respondent no. 2 herein, letters addressed to the

Governor, Dean of the Faculty/University and the Chairman of the National Human Rights Commission against the Vice-Chancellor, respondent no. 2, to initiate the proceedings on the basis of the said complaint, the FIR was registered for the aforesaid offences with reference to the occurrence. Thereafter, the investigation had begun by recording the statements of appellant no. 2 and her mother under Section 161 and Section 164 of the Code of Criminal Procedure, for short 'the Cr.P.C.' and the charge-sheet was filed before the learned magistrate of the committal court. Thereafter, the cognizance was taken by him and the case was committed for trial to the learned District and Sessions Judge, who has framed the charges, after perusing the relevant material collected by the investigating officer, which is the part of the charge-sheet. Learned senior counsel for the appellants contends that the learned District and Sessions Judge has framed the charges after applying his mind with reference to the allegations contained in the complaint, the material collected by the investigating officer during the investigation, his final report and the record of the case, and, therefore, the High Court ought not have exercised its revisional and inherent jurisdiction to quash the proceedings against the respondents. He submitted that the High Court has exceeded its jurisdiction in

quashing the proceedings. However, in the course of submission, learned senior counsel for the appellants very fairly submitted that framing of the charge under Section 376 of the Code against respondent no. 2 is not correct as there is no such allegation made against respondent no. 2 herein with regard to the said offence by appellant no. 2. However, he submitted that the charges framed in relation to other offences are based on material evidence collected by the investigating officer and the same is justified and, hence, quashing of the same by the High Court is erroneous in law. He further invited our attention to the complaint, letters written by appellant no. 2, the FIR, the charge-sheet, the statements of appellant no. 2 and her mother recorded under the Cr.P.C. and the order passed by the learned District and Sessions Judge, who framed the charges against the accused by recording reasons. He further contends that the High Court has not examined the justification of framing charges against the accused in the case and, therefore, the exercise of revisional jurisdiction by the High Court has rendered the order of framing charges by the learned District and Sessions Judge erroneous in law. Thus, he prayed for setting aside the same and remand the case to the trial court for conducting the trial afresh against the respondents by giving sufficient opportunity to them.

Mr. P. Vishwanatha Shetty, learned senior counsel appearing for respondent no. 2 rebutted the submissions made by learned senior counsel appearing for the appellants, contending that the High Court, keeping in view the nature of allegations made against respondent no. 2 by appellant no. 2 in her complaint dated 19.02.2002, addressed to the Senior Superintendent of Police to set the criminal law in motion against the accused, the FIR registered for the offences, the order framing the charges and the criminal proceedings initiated against the accused, has rightly quashed the proceedings after perusal of the complaint, the FIR, the final report containing the statements of the appellants holding that no case is made out against the accused. He further submitted that by a careful reading of the aforesaid allegations contained in the documents referred to supra which are produced in this case it is crystal clear that the same would not constitute the aforesaid charges framed against the respondents under the provisions of the Code. According to him, the framing of charges on the basis of the material available and the report filed by the investigating officer is wholly a non-application of mind on the part of the learned District and Sessions Judge. He further submitted that statements under the Cr.P.C.,

particularly the statement of appellant no. 1, the mother of appellant no. 2, which was recorded subsequently on the basis of information given by appellant no. 2 that respondent no. 2 attempted to commit rape on her, is the basis for the investigating officer to file the charge-sheet on the alleged offence against respondent no. 2 under Section 376 of the Code. The aforesaid material aspects available on record are not considered in a proper perspective and not examined by the learned District and Sessions by applying its mind at the time of framing of charges, particularly the charge under Section 376 of the Code, against the respondents and therefore, the High court was justified in quashing the proceedings. He next submitted that the material evidence collected by the investigating officer and the charge-sheet do not constitute any offences as alleged against the respondents is evident from the allegations made in the complaint made by the appellant no. 2-complainant. Therefore, framing of charges against the accused by the learned District and Sessions Judge is found to be untenable in law by the High Court and accordingly the same was rightly quashed by the High Court. Hence, there is no need for this Court to interfere with the well reasoned judgment and order of the High Court as justice has been done to the parties. It is also contended by learned senior counsel for respondent no. 2 that originally this

appeal has been filed by the mother of appellant no. 2, who is currently in Australia, permission for which has been given by this Court and objection to which has been raised and there afterwards complainant is considered as appellant no. 2 in these proceedings. He next contended that the nature of the statements given to the investigating officer after statements under Sections 161 and 164 of the Cr.P.C. were recorded would clearly go to show that the false allegations are levelled against respondent no. 2 and, in this backdrop, the framing of charges is totally unwarranted in this case. Therefore, he urged that the High Court is justified in quashing the proceedings, and hence the same does not call for interference by this Court in exercise of its appellate jurisdiction.

Arguments advanced by learned senior counsel for respondent no. 2 have been adopted by the learned counsel appearing for respondent nos. 3 and 4.

Learned counsel for the State, however, sought to justify the charge framed under Section 376 of the Code against respondent no. 2 by appellant no. 2 placing strong reliance on the statement of mother of appellant no. 2, who has clearly stated with regard to the alleged offence of Section 376 of the Code against

respondent no. 2, therefore, the same cannot be found fault with by this Court at this stage of the proceedings.

We have very carefully considered all the material available on the record and having regard to the facts and circumstances of the case and the rival legal submissions made on behalf of the parties, we are of the considered view that framing of charge under Section 376 of the Code against respondent no. 2 is not pressed into service by the learned counsel for the appellants. Therefore, in our opinion, the learned District and Sessions Judge has not applied its mind to the allegations contained in the charge-sheet with reference to the complaint lodged by appellant no. 2 to the Senior Superintendent of Police against the respondents at the time of framing of charges against them, which are quashed by the High Court by passing the impugned judgment and order. However, quashing of order of framing charges is correct but quashing of the proceedings before the learned District and Sessions Judge by the High Court is not correct. In our considered opinion, after quashing the order of framing charges against accused the High Court ought to have remanded the case back to the learned District and Sessions Judge with a direction to hear the learned counsel for the parties and apply its mind to the

material produced by the investigating officer and the charge-sheet filed and pass appropriate order in accordance with law in respect to either frame the charges or not against the accused in exercise of its power under Section 237 of the Cr.P.C. after considering the legal aspect as to whether he would still have jurisdiction to frame the charge under Section 376 of the Code in view of the submissions made on behalf of the learned senior counsel for the appellants in this regard against respondent no. 2 and whether this issue still survive for his consideration.

In view of the above, we remand the matter back to the learned District and Sessions Judge with a direction to examine the matter afresh and decide the same after hearing learned counsel for the parties and apply his mind to all the material available on record, the settled principles of law with reference to the question involved and pass appropriate order in accordance with law with regard to framing of charges on the alleged offences. Accordingly, we set aside the order of the learned District and Sessions Judge framing the charges against the respondents.

We make it clear that learned counsel for the parties are at liberty to urge all possible grounds which are available to them under law at the time of

hearing on the charges by the learned District and Sessions Judge.

With the aforesaid observations, direction and liberty these appeals are partly allowed to the aforesaid extent.

.....J.  
(V. GOPALA GOWDA)

.....J.  
(C. NAGAPPAN)

NEW DELHI,  
FEBRUARY 25, 2015

ITEM NO.7

COURT NO.11

SECTION IIB

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(s).  
9890-9891/2010

(Arising out of impugned final judgment and order dated 17/12/2009 in CRLR No. 39/2003,17/12/2009 in CRLR No. 40/2003, passed by the High Court Of Punjab & Haryana at Chandigarh)

SULTANA BEGUM &amp; ANR.

Petitioner(s)

VERSUS

STATE OF PUNJAB &amp; OTHER

Respondent(s)

(with office report)

Date : 25/02/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA  
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.  
Mr. Divya Jyoti Jaipurkar, Adv.  
Mr. Tariq Adeeb, Adv.  
Ms. Jyoti Mendiratta, Adv.

For Respondent(s) Mr. Jayant K. Sud, AG, Punjab  
Ms. Jasleen Chahal, AAG  
Mr. Ajay P. Tushir, Adv.

Mr. P. Vishwanatha Shetty, Sr. Adv.  
Mr. Sharan Thakur, Adv.  
Mr. Vijay Kumar Paradeshi, Adv.  
Mr. Ramesh Babu M.R., Adv.

Mr. Dinesh Verma, Adv.  
Mr. Rajat Sharma, Adv.  
Mr. Subhashish Bhowmick, Adv.

Dr. (Mrs.) Vipin Gupta, Adv.

Mr. C. D. Singh, Adv.  
Ms. Sakshi Kakkar, Adv.

Mr. Kuldip Singh, Adv.  
Mr. Ramesh Babu M. R., Adv.

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

Leave granted.

The appeals are partly allowed in terms of the signed  
order.

(VINOD KR. JHA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)