

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S) .2340 OF 2011

KIRAN KUSHWAHA

APPELLANT (S)

VERSUS

STATE OF DELHI & ORS.

RESPONDENT (S)

O R D E R

The correctness of the judgment and order passed by the High Court of Delhi in CrI. W.P. No. 86 of 2008 declining to exercise the inherent jurisdiction under Section 482 of the Code of Criminal Procedure, for short 'Cr.P.C.' to quash the order passed by the metropolitan magistrate in issuing summons vide order dated 19.03.2007 after rejecting the negative report filed by the investigating officer on a private complaint lodged by the appellant herein as the police did not investigate the matter on the complaint lodged with

the jurisdictional police is challenged before us. Before the learned metropolitan magistrate, who took cognizance of the matter under Section 202 of Cr.P.C., the sworn statements of the appellant and her daughter were recorded. The learned metropolitan magistrate did not issue summons but directed the investigating officer to investigate the allegations contained in the private complaint filed under Section 156(3) of Cr.P.C. Pursuant to the said order, the investigating officer carried the investigation and submitted a negative report against the appellant herein. The learned metropolitan magistrate considered the same and found that the case requires consideration and ordered for issuance of summons to the appellant herein. The correctness of the same was challenged before the learned Additional District Judge, New Delhi in CR No. 238 of 2007. The Court of learned Additional District Judge, vide order dated 22.11.2007 did not interfere with the order of the metropolitan magistrate. Correctness of the same was challenged before the High Court under Section 482 of Cr.P.C.

We have heard Mr. P.N. Mishra, learned senior counsel for respondents and learned counsel for the appellant.

Learned counsel for the respondents sought to justify the correctness of the order passed by the High Court submitting that the same is based on relevant material on record particularly having regard to the nature of the allegations contained against the respondents by the complainant and sworn statements of appellant and her daughter. He further submitted that there is no material evidence against the respondents.

Having regard to the facts and circumstances of the case, the material available on record and the rival legal submissions made by the learned counsel for the appellant and the learned senior counsel for the respondents, we are of the considered opinion that the matter requires trial and hence, we are satisfied that it is a fit case for our interference. The High Court has gone into the merits of the case and thereby it exceeded its jurisdiction under Section 482 of Cr.P.C. and accordingly, the impugned judgment and order of the High Court is set aside and the appeal is allowed. Consequently, the learned metropolitan magistrate is directed to proceed with the trial and decide the case in accordance with law.

We make it very clear that we are not expressing any opinion on the allegations of charges.

The appeal is allowed in the aforesaid terms.

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

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

NEW DELHI,  
MARCH 26, 2015

ITEM NO.106

COURT NO.9

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). 2340/2011

KIRAN KUSHWAHA

Appellant(s)

VERSUS

STATE OF DELHI &amp; ORS.

Respondent(s)

Date : 26/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s)

Mr. Praveen Swarup, Adv.

For Respondent(s)

Mrs. Anil Katiyar, Adv.

Mr. Ugra Shankar Prasad, Adv.

Mr. P.N. Mishra, Sr. Adv.

Mr. Vishwajit Singh, Adv.

Ms. Ridhima Singh, Adv.

Mr. Gaurav Singh, Adv.

Mr. Maninder Singh, ASG

Mr. S.W. Quadri, Adv.

Mr. Zaid Ali, Adv.

Mr. D.S. Mahra, Adv.

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

The appeal is allowed in terms of the signed order.

(VINOD KR. JHA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)