

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.845 OF 2011

Manju Sinha and Others

Appellant (s)

Versus

State of Jharkhand and Another

Respondent(s)

O R D E R

Heard Mr. T.V. George, learned counsel for the appellant and Ms. Susmita Lal, learned counsel for the respondents.

On the basis of a complaint filed by the respondent No.2, Gita Singh, the Judicial Magistrate, Dhanbad, Jharkhand, took cognizance of the offences punishable under Sections 448, 323 and 354 I.P.C. against the accused, namely, K.K. Mandirwar. In course of evidence, certain allegations came against the wife and sons of K.K. Mandirwar and on the basis of the said evidence, the learned Magistrate issued summons under Section 319 Cr.P.C. to them.

Being dissatisfied with the said order of summoning passed on 16th November, 2009, they preferred Criminal M.P. No.1651 of 2009, under Section 482 of the Code of Criminal Procedure for quashment of the said order. The High Court by the impugned order dated 6th August, 2010, has declined to

interfere with the order passed by the Magistrate.

To appreciate the controversy from a proper perspective, we have carefully perused the allegations made in the complaint against K.K. Mandirwar. The allegation, as it appears to us, is that he had entered into the house with an intention to rape Gita Singh, the respondent No.2 herein, and eventually, cognizance have been taken for molestation. In the evidence, it has come that all of them assaulted Saurabh, the son of Gita.

Considering the evidence brought on record, in our considered opinion, it is not a fit case where power under Section 319 Cr.P.C. should have been exercised regard being had to the principles laid down in the recent Constitution Bench decision in Hardeep Singh vs. State of Punjab and Others (2014) 3 SCC 92.

In the result, we allow the appeal, set aside the order passed by the Magistrate, as well as the High Court and direct the trial court to proceed against the original accused as per law.

.....J.
[Dipak Misra]

.....J.
[Prafulla C. Pant]

New Delhi
March 11, 2015.

ITEM NO.5

COURT NO.5

SECTION IIA

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.845 of 2011

MANJU SINHA & ORS.

Appellant(s)

VERSUS

STATE OF JHARKHAND & ANR

Respondent(s)

Date : 11/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. T. V. George, AOR
Mr. Satyalipsu Ray, Adv.
Mr. Rakesh Taneja, Adv.

For Respondent(s) Ms. Susmita Lal, Adv.
Mr. Ashesh Lal, Adv.
Ms. Neha Garg, Adv.
Mr. Apurb Lal, Adv.

Mr. Ratan Kumar Choudhuri, 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.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)