

ITEM NO.105

COURT NO.8

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. 2161/2013

RAJESH MEHROTRA

APPELLANT(S)

VERSUS

STATE OF U.P.& ORS.
(WITH OFFICE REPORT)

RESPONDENT(S)

Date : 05/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s)

Mr. Abhay Singh, Adv.
Mr. Sumit Attri, Adv.
Mr. Chiral Dugar, Adv.
Ms. Vindhya Singh, Adv.

For Respondent(s)

Mr. Pawan Shree Agrawal, Adv.
Mr. Adarsh Upadhyay, Adv.

Mr. Anish Dayal, Adv.
Mr. Ishwar Mohanty, Adv.
Ms. Anitha Shenoy, 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 LAKHINA]
COURT MASTER[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2161/2013

RAJESH MEHROTRA . . . APPELLANT

VERSUS

STATE OF U.P. & ORS. . . RESPONDENTS

ORDER

1. Heard learned counsel for the parties.
2. This appeal challenges an order of the High Court of Allahabad dated 23rd February, 2012 by which the criminal proceeding registered against the accused appellant under Sections 304/384/420 of the Indian Penal Code, 1860 (for short "IPC") has been refused to be quashed by the High Court. The criminal proceeding in question has been registered on the basis of an order passed by the learned Magistrate under Section 156(3) of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") pursuant to a complaint filed by the respondent No.3.

3. We have perused the statements made in the complaint filed under Section 156(3) Cr.P.C. and we have also taken note of the submissions made at the Bar that the accused appellant was the son-in-law (since divorced) of the complainant.

4. Learned counsel for the accused appellant has drawn the attention of the Court to the death certificate in respect of the death of the father of the complainant in respect of which incident the offence under Section 304 IPC has been alleged. Learned counsel has also drawn our attention to the report of Police Station, Feelkhana, Kanpur Nagar dated 25th September, 2011 submitted pursuant to the order of the Court wherein the Investigating Officer has stated that the dispute between the parties appears to be civil in nature.

5. The deceased was 99 years old at the time of his death and he was suffering from Chronic Malnutrition with Sev. Anaemia with Sec Respiratory Infection with Gaspig lav GC and died of a sudden cardiorespiratory arrest. Taking into account the totality of the facts of the case, the circumstances in which death had occurred and also the report of the Police Station, Feelkhana, Kanpur Nagar dated 25th September, 2011, we are of the view that the prosecution in the instant case under Section 304 IPC in all likelihood would be a lame prosecution and, therefore, in the fitness of things ought to be interdicted by this Court. Insofar as the offences alleged under Section 384 and 420 of the IPC are concerned, we find the allegations in support to be bald, vague and lacking in precision and clarity.

6. However, we cannot help observing, from the facts placed before us, that the accused who is the former son-in-law of the complainant has

indulged in certain acts which may amount to harassment of the complainant and his family. In fact, there are some other criminal cases pending between the parties in this regard. In the above circumstances, we deem it fit, while quashing the proceedings in question, to require the accused appellant to give an undertaking before this Court that he will conduct himself properly insofar as complainant and his family are concerned and will not cause any harassment or intimidation to them. In fact, the learned counsel for the accused appellant has assured the Court of such conduct on the part of the accused appellant. The aforesaid undertaking shall be filed before this Court within a period of four weeks from today. We make it clear that in the event of any breach of the undertaking it will be open for the respondent - complainant to draw the attention of this Court to such breach in which event orders, as may be appropriate, will be passed by the Court. We also make it clear that the present order will not

affect any other case between the parties that may be pending before the concerned authority/competent Court. All such cases will, naturally, be decided in accordance with law.

7. The appeal is allowed in the above terms.

....., J.
(RANJAN GOGOI)

....., J.
(N.V. RAMANA)

NEW DELHI
AUGUST 05, 2015