

Court No. - 85

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Case :- APPLICATION U/S 482 No. - 1759 of 2022

Applicant :- Ashwani Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Brij Raj Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan,J.

Heard Sri Brij Raj Verma, learned counsel for the applicants and learned A.G.A for the State.

This application under Section 482 Cr.P.C. has been filed with a prayer to quash the summoning order dated 26.03.2021 passed by Chief Judicial Magistrate, Pilibhit as well as the entire criminal proceedings of Case No.5184 of 2021 (State Vs. Ravindra Kumar & Others), arising out of Crime No. 342 of 2019, under Sections 498-A, 323, 504 I.P.C. and Section 3/4 D.P. Act, Police Station- Puranpur, District-Pilibhit, pending in the Court of Chief Judicial Magistrate, Pilibhit.

Learned counsel for the applicants submits that applicant is maternal father-in-law (Mausiya Sasur) of opposite party no.2. He further submits that the allegations made against the applicant in the first information report regarding harassment of opposite party no.2 by him for non-fulfillment of demand of dowry, are general and vague with no specificity. Learned counsel for the applicant has placed reliance on the judgment of the Apex Court in the case of **Geeta Mehrotra vs. State of U.P. and others** reported in **2012 (10) ADJ 464**.

He next submits that similarly in **Taramani Parakh vs. State of Madhya Pradesh and others**, reported in **(2015) 11 SCC 260**, the Apex Court again struck a note not to indiscriminately quash the proceedings against the relatives of the husband in a matrimonial dispute on the strength of Geeta Mehrotra (supra). Paragraph-12 of Taramani Parakh (supra) reads as under:-

"12. In Kailash Chandra Agrawal & Anr. vs. State of U.P. & Ors. (Criminal Appeal No.2055 of 2014 decided on 6.9.2014), it was observed: "9. We have gone through the FIR and the criminal complaint. In the FIR, the appellants have not been named and in the criminal complaint they have been named without attributing any specific role to them. The relationship of the appellants with the husband of the complainant is distant. In Kans Raj vs. State of Punjab & Ors. [(2000) 5 SCC 207], it was observed:-

"5.....A tendency has, however, developed for roping in all relations of the

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in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in absence of any specific role and material to support such role.

The parameters for quashing proceedings in a criminal complaint are well known. If there are triable issues, the Court is not expected to go into the veracity of the rival versions but where on the face of it, the criminal proceedings are abuse of Court's process, quashing jurisdiction can be exercised. Reference may be made to **K. Ramakrishna and Ors. vs. State of Bihar and Anr. [(2000) 8 SCC 547]**, **Pepsi Foods Ltd. and Anr. vs. Special Judicial Magistrate and Ors. [(1998) 5 SCC 749]**, **State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors. [(1992) Suppl 1 SCC 335]**."

Apart from the above, learned counsel for the applicants has also placed reliance upon the latest judgment of the Apex Court in the case of **Mirza Iqbal @ Golu & Another Vs. State of Uttar Pradesh & Another** passed in Special Leave Petition (Crl.) No. 2786 of 2019 decided on 14th December, 2021, wherein the Apex Court has observed that having regard to the case of the appellants and the material placed on record, we are of the considered view that except vague and bald allegations against the appellants, there are no specific allegations disclosing the involvement of the appellants to prosecute them for the offences alleged. In the said case, the Apex Court has held that in view of the judgment of the Apex Court in the case of **Geeta Mehrotra (Supra)**, which squarely applies to the case of the appellants, we are of the view that it is a fit case to quash the proceedings.

In view of the above, the matter requires consideration in respect of the applicant only. Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A.

Issue notice to opposite party no.2 returnable at an early date.

Opposite party no.2 may file counter affidavit within four weeks. Learned A.G.A. may also file counter affidavit within the same period. Rejoinder affidavit may thereafter be filed within two weeks.

List this case on 22nd March, 2022 before appropriate Bench.

Till the next date of listing, no coercive action shall be taken against the applicant in the aforesaid case.

Order Date :- 7.2.2022

Rahul.