

Shiv Shankar Verma And Others vs State Of U.P. And Another on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:7106

Court No. - 28

Case :- APPLICATION U/S 482 No. - 7016 of 2017

Applicant :- Shiv Shankar Verma And Others

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

Counsel for Applicant :- Umesh Singh, Amarjeet Singh

Counsel for Opposite Party :- Govt. Advocate, Radhey Shyam

Hon'ble Brij Raj Singh, J.

1. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. List revised. None is present on behalf of the private opposite party no. 2.
3. Learned counsel for the applicants submits that he does not want to press this application on behalf of the applicant, as he wants to file application for discharge through counsel before the court below.
4. As requested, this application for the applicant no. 5 is dismissed as not pressed and the applicant no. 5 is permitted to appear before the concerned court within fifteen days from today through counsel and move an application claiming discharge. The concerned court shall after hearing the counsel decide the application on merits, in accordance with law, within a period of two months from today.

5. No coercive measure shall be adopted against the applicant no. 5 for a period of two months from today or till the disposal of the discharge application, whichever is earlier.

6. Heard Sri Umesh Singh, learned counsel for the applicant nos. 1 to 4 and Girijesh Kumar Dwevedi, learned A.G.A. for the State respondents as well as perused the record.

7. The instant application has been filed seeking quashing of the cognizance/summoning order dated 29.07.2017 passed by the learned Special C.J.M., (Custom), Lucknow in complaint case no. 3064 of 2015 (Vineeta Verma Vs. Pramod Verma and other) under Sections 498, 323, 504 I.P.C. as also the entire proceedings of complaint case no. 3064 of 2015 pending before learned Special C.J.M, (Custom), Lucknow.

8. It has been submitted by the learned counsel for the applicants that marriage of the applicant no. 5 was solemnized with the daughter of the opposite party no. 2, namely, Vineeta as per Hindu Rites and Rituals on 24.2.2015 thereafter all of sudden on 28.4.2015, the Vineeta (daughter of the opposite party no. 2) left her in-laws' house but her father lodged an F.I.R. against the in-law's of her daughter under Section 364 I.P.C. on 29.4.2015.

9. Learned counsel for the applicants further submitted that in the aforesaid F.I.R., in the police-station itself, a compromise has been arrived at between the mother of the applicant no. 5 (husband) and the opposite party no. 2 (father of Vineeta) and consequent to which a final report was submitted by the Investigating Officer on 1.5.2015. All the articles, gold ornaments as well as Rs. One Lakh were returned to the complainant, a copy of the compromise has been annexed along with the application as Annexure No. 6. Learned counsel for the applicant submitted that after considering the statement recorded under Section 161 of Prem Prakash, the final report was submitted.

10. Learned counsel for the applicants submits that after compromise she filed a complaint bearing no. 3064 of 2015 against the applicants before the learned Special Judge, Chief Judicial Magistrate (Custom), Lucknow on 14.9.2015 on the basis of false and fabricated grounds to mislead the court in which statements of the complainant under Section 200 and 202 Cr.P.C. were recorded. The general allegations of demand of dowry were made against the applicant no. 5 and his relatives and on the basis of such statements, the applicants were summoned, which is under challenge in the present application. Learned counsel for the applicants relying upon the judgements of the Apex Court in Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741, Achin Gupta vs. State of Haryana and Another : 2024 SCC Online SC 759 and Kahkashan Kausar Vs. State of Bihar, (2022) 6 SCC 599, submits that for want of any specific allegation, merely on general and vague allegations, the prosecution of the applicants herein is unwanted and is just a malicious prosecution. In support of his submission he relies upon a judgment of this Court dated 3.10.2024 passed in Application No. 27067 of 2019 (Pranjal Shukla and 2 others Vs. State of U.P. and Another).

11. Learned counsel for the applicants submits that Vineeta has performed a second marriage and out of her wedlock a child was born and in support of his contention, he has annexed birth certificate of the child as SA-3 to the supplementary affidavit.

12. Learned A.G.A. opposed the aforesaid contention of the learned counsel for the applicants and submitted that general allegations were made against the applicants and once the statement under Section 200 and 202 Cr.P.C. had been recorded and on the basis of which complaint case has been entertained and summoning order had been passed then there is no illegality or infirmity in the impugned summoning order.

13. In case of Geeta Mehrotra (supra), the Apex Court has observed as under:-"

"19. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

20. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

"there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their young days in chasing their cases in different courts."

The view taken by the judges in this matter was that the courts would not encourage such disputes.

21. In yet another case reported in (2003) 4 SCC 675 : AIR 2003 SC 1386 in the matter of B.S. Joshi v. State of Haryana it was observed that there is no doubt that the object of introducing Chapter XXA containing Section 498A in the Penal Code, 1860 was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punish the husband and his relatives who harass or torture the wife to coerce her relatives to satisfy unlawful demands of

dowry. But if the proceedings are initiated by the wife under Section 498A against the husband and his relatives and subsequently she has settled her disputes with her husband and his relatives and the wife and husband agreed for mutual divorce, refusal to exercise inherent powers by the High Court would not be proper as it would prevent woman from settling earlier. Thus for the purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320 Cr. P.C. would not be a bar to the exercise of power of quashing. It would however be a different matter depending upon the facts and circumstances of each case whether to exercise or not to exercise such a power."

(Emphasis supplied)

14. In *Kahkashan Kausar* (supra), the Apex Court has observed as under:

"10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the appellant in-laws are in the nature of general omnibus allegations and therefore liable to be quashed?

15. In *Geeta Mehrotra v. State of U.P.* [*Geeta Mehrotra v. State of U.P.*, (2012) 10 SCC 741 : (2013) 1 SCC (Civ) 212 : (2013) 1 SCC (Cri) 120] it was observed : (SCC p. 749, para 21) "21. It would be relevant at this stage to take note of an apt observation of this Court recorded in *G.V. Rao v. L.H.V. Prasad* [*G.V. Rao v. L.H.V. Prasad*, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p. 698, para 12) '12. ? There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts.

16. Recently, in *K. Subba Rao v. State of Telangana* [*K. Subba Rao v. State of Telangana*, (2018) 14 SCC 452 : (2019) 1 SCC (Cri) 605], it was also observed that : (SCC p. 454, para 6) "6. ? The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."

17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.

21. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the appellant-accused, it would be unjust if the appellants are forced to go through the tribulations of a trial i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this Court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must, therefore, be discouraged."

(Emphasis supplied)

15. In Achin Gupta (supra), the Apex Court has observed as under:

"25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute."

(Emphasis supplied).

16. Therefore, in the considered opinion of this Court the instant F.I.R. is nothing but a concocted story of demand of dowry by making general and vague allegations against the applicants herein.

The complaint lodged by the opposite party no. 2 though general in nature but she has tried to improve version in the statement recorded under Section 200 Cr.P.C. but after perusing the statement again, what fact comes out before the Court is that she has orally stated that she was tortured by her in-laws, which is only a sweeping allegation. Therefore, this Court cannot loss its sight that the final report was filed in the case crime no. 175 of 2015 on the basis of compromise dated 1.6.2015 which indicates that the articles, gold items and other goods belonging to the dowry were returned to the opposite party no. 2.

17. The application is allowed and the cognizance/summoning order dated 29.07.2017 passed by the learned Special C.J.M., (Custom), Lucknow in complaint case no. 3064 of 2015 (Vineeta Verma Vs. Pramod Verma and other) under Sections 498, 323, 504 I.P.C. as also the entire proceedings of complaint case no. 3064 of 2015 pending before learned Special C.J.M, (Custom), Lucknow are hereby quashed in respect of the applicant nos. 1 to 4 only.

[Brij Raj Singh, J.] Order Date : - 4.2.2025 Anuj Singh