

# Vimlesh vs State Of U.P. And Another on 4 February, 2025

**Author: Manju Rani Chauhan**

**Bench: Manju Rani Chauhan**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15222

Court No. - 52

Case :- APPLICATION U/S 482 No. - 35704 of 2024

Applicant :- Vimlesh

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

Counsel for Applicant :- Satyendra Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan, J.

1. Heard Mr. Satyendra Kumar Mishra, learned counsel for the applicant, Mr. Mayank Awasthi, learned A.G.A. for the State and perused the record.

2. This application U/S 482 Cr.P.C. has been filed to quash the impugned order dated 26.09.2024 passed by the Additional Sessions Judge (FTC-1), Lalitpur in Session Case No.5 of 2024 (State Vs. Mahendra and others), arising out of Case Crime No.93 of 2023, under Sections 302, 323, 504, 34 I.P.C. and 3/4 Dowry Prohibition Act, Police Station Bar, District Lalitpur, whereby the discharge application filed by the applicant has been dismissed.

3. Brief facts of the case are that the first informant namely, Ramswaroop has lodged an F.I.R. on 2.8.2023 at about 20:59 hours against six persons including the applicant with the allegation that

marriage of his daughter, namely, Priyanka Raikwar was solemnized with Mahendra Raikwar on 08.06.2019 at the Kundeshwar Mandir. From the date of marriage itself, all the named accused were demanding a motorcycle and one lakh as additional dowry. When the informant expressed his inability in fulfilling their demand, they insulted, beat, abused and harassed the victim. On 29.07.2023, the victim told the aforesaid to her father i.e. the informant, who reached her daughter's house on the same date. He tried to convince the accused persons, but they were adamant with their demand. After the aforesaid, the accused persons caught the informant, the victim was beaten and forced to drink poison. After this the victim became unconscious and the informant took the victim to the Government Hospital. Due to the serious condition, she was referred to the District Hospital Lalitpur, where she died during treatment.

4. Learned counsel for the applicant submits that there is delay in lodging the F.I.R. without giving any plausible explanation for the same. The F.I.R. has been lodged with false and frivolous allegations due to ulterior motive. He further submits that the applicant is neither the family members of the in-laws of the victim nor distinctively related to her in-laws. He submits that the applicant is neighbor of the husband of the victim and the F.I.R. has been lodged with false and frivolous allegations due to ulterior motive. He further submits that the court concerned has passed the order impugned in illegal and mechanical manner without application of judicial mind as the fact that the applicant was neither family nor distinctly related to the in-laws of daughter of opposite party no.2 and had no intention, object or motive in participating in the incident as stated wherein poisonous substance was given to the victim. There is no evidence on record to show the involvement of the applicant which resulted in the death of the victim. He next submits that the Investigating Officer has not collected any credible evidence to prove any such allegations as made by the opposite party no.2 in the F.I.R. as well as the statements of the witnesses. Charge-sheet in the matter has been submitted on 19.09.2023 under Sections 498A, 304B, 323, 504, 34 I.P.C. and 3/4 Dowry Prohibition Act and the court concerned has taken cognizance.

5. Learned counsel for the applicant submits that discharge application has been moved by the applicant on 11.03.2024 but the same has been rejected on 26.09.2024 without application of judicial mind not considering the grounds as taken in the aforesaid application, therefore, the order dated 26.09.2024 may be set-aside and the proceedings of the case may also be quashed.

6 Learned A.G.A. on the other hand submits that from the statement of witnesses as well as CD Parcha no.5 and 9 it is clear that there are allegations that the applicant had caught hold of the daughter of opposite party no.2 alongwith her husband and other family members when the victim was forcefully given poisonous substance. From reading of the FIR as well as statements prosecution witnesses, prima facie offence is made out and the same has been discussed in the order dated 26.09.2024 while rejecting the discharge application. He further submits that the court concerned has rightly summoned the applicant under Section 302 I.P.C.

7. The submissions made by the applicant's learned counsel call for adjudication on pure questions of fact which may adequately be adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial

before the actual trial begins.

8. In support of his submission, learned A.G.A. has relied upon a judgment of this Court dated 19.12.2024 passed in Application U/S 482 No. 35886 of 2024 (Vaibhav Jain Vs. State of U.P. & Another), wherein the order rejecting the discharged application filed by the applicant has been challenged. He further submits that no interference is required by this Court in the instant case.

9. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that the perusal of the complaint, the summoning order and also all other the material available on record makes out a prima facie case against the accused at this stage and this Court does not find any justifiable ground to set aside the impugned order refusing the discharge of the accused. This court has not been able to persuade itself to hold that no case against the accused has been made out or to hold that the charge is groundless.

10. Vide judgment and order dated 19.12.2024 referred by the learned A.G.A., this Court has also expressed its detailed opinion in refusing to quash the order of the court below whereby discharge application has been rejected.

11. The prayer for quashing or setting aside the impugned order dated 26.09.2024 is refused as I do not see any illegality, impropriety and incorrectness in the impugned order or the proceedings under challenge. There is absolutely no abuse of court's process perceptible in the same. The present matter also does not fall in any of the categories recognized by the Supreme Court which might justify interference by this Court in order to upset or quash them.

12. The present application lacks merit and is, accordingly, dismissed.

Order Date :- 4.2.2025 Abhishek Singh