

Meera Bharti And Another 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:15305

Court No. - 52

Case :- APPLICATION U/S 482 No. - 38586 of 2024

Applicant :- Meera Bharti And Another

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

Counsel for Applicant :- Harendra Pal, Kamlesh Shrama

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Manju Rani Chauhan, J.

1. Heard Mr. Harendra Pal, learned counsel for the applicants as well as Mr. Amit Singh Chauhan, learned A.G.A. for the State and perused the record.

2. This application under Section 482 Cr.P.C. has been filed to quash the charge sheet dated 03.06.2023 along with Cognizance/Summoning order dated 03.01.2024 and the entire proceeding of Criminal Case No.02211 of 2024 (State vs. Meera Bharti & Another), arising out of Case Crime No.1407 of 2021, under Sections 498-A, 323, 504, 506, 313, 325, 307, 354(A), 354 I.P.C. and Section 3/4 D.P. Act, Police Station- Sahibabad, District- Ghaziabad.

3. Brief facts of the case are that an FIR has been lodged on 01.07.2021 by Suresh Giri against six persons including the applicants with the allegations that marriage of daughter of opposite party no.2 was solemnized with the son of applicants on 17.02.2016 according to Hindu rites and rituals. The opposite party no.2 had given dowry as per his capability and capacity. The son of applicants was working as Sipahi (sepoy) in the Army and the applicant no.2 i.e. father-in-law of daughter of opposite party no.2 was working as Subedar in the Indian Army. After passage of some time, the applicants along with other family members raised additional dowry demand of Rs.5,00,000/- and a four wheeler. The daughter of opposite party no.2 was mentally and physically harassed by the applicants and other family members for fulfillment of additional dowry demand as raised by them. On 25.08.2016, when the daughter of opposite party no.2 came out of the bathroom, she was caught hold by her devar-Raja and was dragged to the bedroom where he did objectionable act with her. When the daughter of opposite party no.2 shared this incident with her husband, he instead of scolding his brother, assaulted the daughter of opposite party no.2 and raised the additional dowry demand stating that till she brings the amount as demanded by them, this behaviour will continue with her. The daughter of opposite party no.2 kept quite as she wanted to stay peacefully at her in-laws' place.

4. It has been further alleged that in May, 2016, the applicant no.2 i.e. father-in-law of daughter of opposite party no.2, finding her alone, entered her room and did objectionable act with her. She did not share the incident with any one with the hope that things would subside with passage of time. In the meantime, she was blessed with a girl child. The applicants as well as other family members were not happy with the birth of a girl child and she was mentally and physically tortured by all the persons named in the FIR for giving birth to a girl child.

5. When the daughter of opposite party no.2 conceived again and as the applicants were longing for a boy, therefore, they got her fetal sex examination conducted and on finding out that it is a female child, in a planned manner with the intention to get the child aborted, on 16.04.2019 at around 12:30, they pushed her from the first floor which resulted in fracture at several places i.e. spinal cord, hip and legs. She also suffered miscarriage. She was not taken to the hospital by the applicants and was pressurized not to share the aforesaid incident with any one or be ready to face dire consequences. Four hours after the incident, on repeated requests of daughter of opposite party no.2, she was taken to Military Hospital where she was given treatment. As she was threatened by the applicants not to share the aforesaid incident, therefore, she did not disclose about the same as she was afraid of the conduct of the applicants. The spinal cord of the daughter of opposite party no.2 was operated at Command Hospital, Chandigarh and she was again referred to Military Hospital, Patiala. She was discharged from the aforesaid hospital on wheelchair. After her discharge from Military Hospital, she started staying with her husband at Patiala.

6. Another incident happened when she was pushed from the wheelchair and she suffered fracture in her thigh, for which she was again treated. It has been further alleged that on 20.07.2020, the husband of daughter of opposite party no.2 asked the car driver to drop her to her parents place at Sahibabad after which on 31.07.2020, neither the applicants nor the son of the applicants have ever been in contact with the daughter of opposite party no.2 and are not paying even a single penny for the maintenance of daughter as well as grand-daughter of opposite party no.2. The son of the

applicants has also filed a divorce petition. The condition of daughter of opposite party no.2 is very poor as she is on wheelchair, therefore, the present FIR has been lodged. After investigation, charge sheet has been submitted against the applicants under Sections 498-A, 323, 504, 506, 313, 325, 307, 354 (Ka), 354 I.P.C. and Section 3/4 D.P. Act. The investigation against the husband and others is pending.

7. Learned counsel for the applicants submits that the present FIR has been lodged with false and frivolous allegations. He further contends that there are general, omnibus and vague allegations against the applicants who are mother-in-law and father-in-law of daughter of opposite party no.2. The FIR has been lodged by the opposite party no.2 whereas the incident as narrated in the FIR has not been spoken about by the victim in her statement recorded under Section 164 Cr.P.C., therefore, the present FIR has been lodged for the purpose of harassing the applicants. He further submits that from the statement of the victim as well as the version of the FIR, no offence against the applicants is disclosed and the present prosecution has been instituted with a mala fide intention for the purpose of causing harassment. He, therefore, submits that the charge-sheet, summoning order as well as entire proceedings be quashed by this Court as the same is an abuse process of Court.

8. Learned A.G.A. for the State on the other hand submits that from the version of the FIR and the details regarding the incidents which have resulted in such a condition of daughter of opposite party no.2 who is on wheelchair, offences under the relevant sections are made out. Details and specific dates of the incidents have been given which have not been denied by the applicants at any point of time. From the statement recorded under Section 164 Cr.P.C. also, the allegation regarding misbehavior by father-in-law is proved. He further submits that all the contentions raised by the applicants' counsel relates to disputed questions of fact. On the basis of material on record after conducting of statutory investigation under Chapter XII Cr.P.C. by the investigating officer, a strong prima facie case is made out against the applicant for the commission of the alleged incident. In support of his case, learned A.G.A. has placed reliance upon the judgments of the Apex Court in the case of Dilbag Rai Vs. State of Haryana & Others reported in AIR 2019 (SC) 693 and Central Bureau of Investigation Vs. Arvind Khanna reported in MANU/SC/1432/2019.

9. I have considered the submissions made by the learned counsel for the parties and have gone through the records of the present application.

10. This Court finds that the submissions made by the applicants' 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. The issue whether it is appropriate for this Court being the Highest Court to exercise its jurisdiction under Section 482 Cr.P.C. to quash the charge-sheet and the proceedings at the stage when the Magistrate has merely issued process against the applicants and trial is to yet to come only on the submission made by the learned counsel for the applicants that present criminal case initiated by opposite party no.2 are not only malicious but also abuse of process of law has elaborately been discussed by the Apex Court in the following judgments:-

(i) R.P. Kapur Versus State of Punjab; AIR 1960 SC 866,

- (ii) State of Haryana & Ors. Versus Ch. Bhajan Lal & Ors.; 1992 Supp.(1) SCC 335,
- (iii) State of Bihar & Anr. Versus P.P. Sharma & Anr.; 1992 Supp (1) SCC 222,
- (iv) Zandu Pharmaceuticals Works Ltd. & Ors. Versus Mohammad Shariful Haque & Anr.; 2005 (1) SCC 122,
- (v) M. N. Ojha Vs. Alok Kumar Srivastava; 2009 (9) SCC 682,
- (vi) Mohd. Allauddin Khan Vs. The State of Bihar & Others; 2019 o Supreme (SC) 454,
- (vii) Nallapareddy Sridhar Reddy Vs. The State of Andhra Pradesh & Ors.; 2020 o Supreme (SC) 45, and lastly
- (viii) Rajeev Kaurav Vs. Balasahab & Others; 2020 o Supreme (SC) 143.

11. In view of the aforesaid, this Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. 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 F.I.R. and the material collected by the Investigating Officer on the basis of which the charge sheet has been submitted makes out a prima facie case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not find any justification to quash the charge sheet or the proceedings against the applicants arising out of them as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing.

12. The prayer for quashing the charge sheet dated 03.06.2023 along with Cognizance/Summoning order dated 03.01.2024 and the entire proceeding of Criminal Case No.02211 of 2024 (State vs. Meera Bharti & Another), arising out of Case Crime No.1407 of 2021, under Sections 498-A, 323, 504, 506, 313, 325, 307, 354(A), 354 I.P.C. and Section 3/4 D.P. Act, Police Station- Sahibabad, District- Ghaziabad is refused, as I do not see any abuse of the court's process at this pre-trial stage.

13. The present application has no merit and is, accordingly, rejected.

Order Date :- 4.2.2025 Kalp Nath Singh