

Ragni Gupta And Another vs State Of U.P. And Another on 30 April, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:67359

Court No. - 87

Case :- APPLICATION U/S 482 No. - 33519 of 2024

Applicant :- Ragni Gupta And Another

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

Counsel for Applicant :- Prasanna Dwivedi, Sanjeev Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the applicants, Sri S.D. Pandey, learned A.G.A. for the State-O.P. no.1 and perused the record.
2. The present application under Section 482 Cr.P.C. has been filed by the applicants with a prayer to quash summoning order dated 05.11.2022 passed by Judicial Magistrate, Atarra Banda in Complaint No.250/IX of 2022 under section 406, 504 IPC (Maiyadin Gupta vs. Ragni Gupta and others), P.S.Atarra, District-Banda.
3. The facts of the case is that father of O.P. no.2 (now deceased) has filed an application u/s 156(3) Cr.P.C. against his daughter(applicant no.1), son-in-law (applicant no.2) and son of applicant no.1 with an allegation that they were not returning back the ornaments as well as cash ?1,00,000/-. The accused person also threatened to kill the father of O.P. no.2 refusing to return back the ornaments and cash amount. During pendency of complaint, the complainant died on 16.04.2024 and the court

below has permitted for substitution of son of the complainant vide order dated 22.08.2024.

4. Learned counsel for the applicants submitted that the applicants are innocent and they have not committed any offence as alleged in the complaint. He next submitted that the court below while issuing the summoning order has not considered the evidence available on record in its right perspective. The applicants have been falsely dragged in the instant criminal proceeding due to property dispute going on between the family members just to put undue pressure on them so that they do not claim their share in the disputed property. He next contended that as per facts and circumstances of the case, no offence u/s 406 and 504 IPC is made out against the applicants. He submitted that the applicants have no criminal history. He also pointed out certain documents in support of his contention.

5. Per contra, learned A.G.A. vehemently oppose the application and contended that the Court below has rightly summoned the applicants and no interference is required by this Court in the impugned order as well as the on going proceedings.

6. From the perusal of material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicants. All the submissions made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court.

7. Hon'ble Supreme Court in the matter of State of Haryana Vs. Bhajan Lal 1992 Supp (1) SCC 335 has laid down the guidelines under which circumstances the Court should, in its inherent power, entertain an application under Section 482 Cr.P.C. The guidelines are as follows:-

"(i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(iv) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(vii) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. Further, the Hon'ble Supreme Court in the cases of M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918, R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192, and lastly, Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 has held that only those cases in which no prima facie case is made out can be considered in an application under Section 482 Cr.P.C.

9. The instant application does not fall under the guidelines laid down by the Hon'ble Supreme Court in the judgments mentioned above, and followed in a number of matters. Moreover, the facts as alleged cannot be said that, prima facie, no offence is made out against the applicants. It is only after the evidence and trial, it can be seen as to whether the offence, as alleged, has been committed or not.

10. Hence, the instant application filed under Section 482 Cr.P.C. cannot be entertained and is, accordingly, dismissed.

Order Date :- 30.4.2025 Manish Himwan