

A

SATISH KUMAR JATAV

v.

THE STATE OF U.P. & ORS.

(Criminal Appeal No. 770 of 2022)

B

MAY 17, 2022

**[M. R. SHAH AND B. V. NAGARATHNA, JJ.]**

- Code of Criminal Procedure, 1973 – s.482 – Quashing of criminal proceedings – Legality of – Magistrate summoned the private respondents-accused for offences punishable u/ss.307, 504, 506 of IPC and s.3(10)(15) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act – High Court allowed application u/s.482 CrPC preferred by the private respondents-accused and quashed the criminal proceedings as well as summoning order of the Magistrate – Challenge to – Held: The order passed by the High Court was a cryptic, non-speaking order – There was no independent application of mind by the High Court on the legality and validity of the order passed by the Magistrate – While quashing the criminal proceedings, the High Court observed that no useful purpose will be served by prolonging the proceedings of the case – The aforesaid cannot be a good ground and/or a ground at all to quash the criminal proceedings when a clear case was made out for the offences alleged – The cursory and casual manner in which the High Court disposed of the application u/s.482 CrPC and quashed the criminal proceedings is deprecated – Judgment of High Court is unsustainable both on facts as well as in law – Order passed by Magistrate summoning the accused, accordingly, restored – IPC – ss.307, 504 and 506 – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act – s.3(10)(15).*

**Allowing the appeal, the Court**

- G HELD:1.** In a catena of decisions, the Supreme Court has emphasized that the High Court must pass a speaking and reasoned order in such matters. The impugned judgment and order passed by the High Court is however a cryptic, non-speaking order. There is no independent application of mind by the High Court on the legality and validity of the order passed by the Magistrate summoning the accused. The Magistrate issued

**the summons against the accused after considering the statements of the complainant as well as the witnesses recorded under Sections 200 & 202 Cr.P.C. and after considering the evidence on record including the injury certificate. The same has been set aside by the High Court in a most cursory and casual manner.** [Para 6.2][274-H; 275-A-B]

A

**2. Even from the impugned order passed by the High Court it appears that while quashing the criminal proceedings, the High Court observed that no useful purpose will be served by prolonging the proceedings of the case. The aforesaid cannot be a good ground and/or a ground at all to quash the criminal proceedings when a clear case was made out for the offences alleged.** [Para 6.3][275-C-D]

B

**3. The High Court has not at all observed on how the order passed by the Magistrate summoning the accused was wrong and/or erroneous. The manner in which the High Court has disposed of the application under Section 482 Cr.P.C. and has quashed the criminal proceedings is deprecated. When serious allegations for the offences under Sections 307, 504, 506 of the IPC and Section 3(10)(15) of the Act were made, the High Court ought to have been more cautious and circumspect while considering the application under Section 482 CrPC and quashing the criminal proceedings for the aforesaid offences. Under the circumstances, the impugned judgment and order passed by the High Court is unsustainable both on facts as well as in law. The order passed by the Magistrate summoning the accused is hereby restored.** [Paras 6.4 and 7][275-D-G]

C

D

E

F

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.770 of 2022.

From the Judgment and Order dated 16.09.2019 of the High Court of Judicature at Allahabad in Criminal Misc. Application (U/S 482 Cr.P.C.) No.14607 of 2008.

G

Sudhir Dixit, Vishal Prasad, Utkarsh Dixit, Ms. Ritika Sethi, Advs. for the Appellant.

Vinod Diwakar, AAG, Jayant Mehta, Sr. Adv., Sarvesh Singh Baghel, Garvesh Kabra, B. N. Dubey, Akshay Saxena, Ms. Divya Bhalla,

H

- A Abhishek Chauhan, Tushar Jarwal, Kunal Dutt, Ms. B. Vijayalakshmi Menon, Advs. for the Respondents.

The Judgment of the Court was delivered by

**M. R. SHAH, J.**

- B 1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 16.09.2019 passed by the High Court of Judicature at Allahabad in Criminal Misc. Application under Section 482 Cr.P.C. No.14607 of 2008 by which the High Court has allowed the said application under Section 482 Cr.P.C. preferred by the private respondents herein – original accused and has quashed the criminal proceedings of Complaint Case No.1199 of 2005 as well as the summoning order dated 04.02.2008 by which the learned Magistrate summoned the original accused to face the trial for the offences punishable under Sections 307, 504, 506 of the Indian Penal Code (for short, ‘the IPC’) and Section 3(10)(15) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as ‘the Act’), the original complainant/informant has preferred the present appeal.

2. The facts leading to the present appeal in a nutshell are as under:

- That the appellant herein initially filed an application under Section 156(3) Cr.P.C. against the accused persons for the incident which occurred on 11.09.2004, as the local police of Police Station Inchauli, District Meerut did not lodge the FIR. Thereafter the learned Magistrate passed an order dated 04.10.2004 in Misc. Application No.390/11 of 2004 directing the Station House Officer, Police Station Inchauli, District Meerut to lodge the FIR against the accused persons for the offences punishable under Sections 307, 504, 506 of the IPC and Section 3(10)(15) of the Act. That pursuant to the order dated 04.10.2004, a First Information Report bearing Criminal Case No.7 of 2004 for the aforesaid offences was registered. The Investigating Officer submitted the closure report. According to the complainant the local police station was colluding with the accused and he was doubtful about a fair investigation and therefore, the complainant filed another Criminal Complaint Case No.2365 of 2004 against the accused for the aforesaid offences.

2.1 That the learned Magistrate issued notice to the complainant after receiving the final report by the Investigating Officer of Crime

H

No.C-7/2004. The complainant filed the Protest Petition against the final report. The learned Magistrate passed an order dated 21.07.2005 rejecting the final report. The proceedings arising from the police final report was merged into the proceedings of Criminal Complaint Case No.2365 of 2004 pending before the court of Learned Special C.J.M. Meerut. The learned Magistrate directed for recording the statement under Section 161 Cr.P.C. The complainant recorded his statement under Section 200 Cr.P.C. So also, the statement of other witnesses PW1 to PW7 were recorded under Section 202 Cr.P.C. The injury report of the complainant was also brought on record. All the witnesses supported the prosecution case. Thereafter the learned Magistrate passed a reasoned and detailed order vide order dated 04.02.2008 and directed to issue summons to the accused to face the trial for the offences punishable under Sections 307, 504, 506 of the IPC and Section 3(10)(15) of the Act.

2.2 Being aggrieved the respondents - original accused approached the High Court by way of Criminal Misc. Application No.14607 of 2008 and prayed to quash the criminal proceedings in exercise of the powers under Section 482 Cr.P.C. By the impugned judgment and a cryptic, non-reasoned one paragraph order, the High Court has quashed the criminal proceedings which has given rise to the present appeal.

3. Shri Sudhir Dixit, learned counsel appearing on behalf of the original complainant has vehemently submitted that the impugned judgment and order passed by the High Court quashing the criminal proceedings against the accused is a cryptic, non-reasoned order. It is submitted that as such, after narrating the submissions on behalf of the accused, there is no further independent application of mind by the High Court and no reasons whatsoever have been assigned while quashing the criminal proceedings.

3.1 It is submitted that when the learned Magistrate after due application of mind and considering the statements recorded under Sections 200 & 202 Cr.P.C. and after considering the material on record including the injury report had directed to issue summons upon the accused to face the trial, the same was not required to be interfered with by the High Court in exercise of powers under Section 482 Cr.P.C.

4. Learned Counsel appearing on behalf of the State has adopted the submissions made on behalf of the complainant.

A

B

C

D

E

F

G

H

- A        5. Shri Jayant Mehta, learned Senior Advocate appearing on behalf of the respondent Nos.2 to 4 herein - original accused has supported the impugned judgment and order passed by the High Court. It is submitted that in the facts and circumstances of the case and after considering the submissions made by learned counsel for the parties and thereafter when the High Court has quashed the criminal proceedings in exercise of powers under Section 482 Cr.P.C., the same may not be interfered with by this Court in exercise of powers under Article 136 of the Constitution of India.
- B        6. We have heard learned counsel appearing for the respective parties at length. We have gone through and perused the order passed by the learned Magistrate summoning the accused for the offences punishable under Sections 307, 504, 506 of the IPC and Section 3(10)(15) of the Act. We have also gone through and perused and considered the impugned judgment and order passed by the High Court quashing the criminal proceedings against the accused persons in exercise of powers under Section 482 Cr.P.C.
- C        6.1 Having gone through the impugned judgment and order passed by the High Court, we are of the opinion that the same is unsustainable both in law as well as on facts. After narrating the submissions made by the counsel appearing for the parties, we find that there is no further discussion by the High Court on the allegations made against the accused persons and even on the legality and validity of the order passed by the Magistrate summoning the accused. The impugned judgment and order passed by the High Court is a cryptic, non-reasoned order. After recording the submissions made by learned counsel for the parties, and thereafter by passing one paragraph order without assigning any further reasons, the High Court has allowed the application under Section 482 Cr.P.C. and has quashed the criminal proceedings. The one paragraph order after narrating the submissions made by the counsel for the parties reads as under:
- E        “Considering the facts and circumstances of the case, as noted hereinabove, and also the submissions made by the counsel for the parties, the court is of the considered opinion that no useful purpose shall be served by prolonging the proceedings of the above mentioned case.”
- F        6.2 From the aforesaid, it can be seen that the impugned judgment and order passed by the High Court is a cryptic, non-speaking order. We

find no independent application of mind by the High Court on the legality and validity of the order passed by the learned Magistrate summoning the accused. The learned Magistrate issued the summons against the accused after considering the statements of the complainant as well as the witnesses recorded under Sections 200 & 202 Cr.P.C. and after considering the evidence on record including the injury certificate. The same has been set aside by the High Court in a most cursory and casual manner. The manner in which the High Court has disposed of the application under Section 482 Cr.P.C. and quashed the criminal proceedings is not appreciated at all. In a catena of decisions, this Court has emphasized that the High Court must pass a speaking and reasoned order in such matters.

6.3 Even from the impugned order passed by the High Court it appears that while quashing the criminal proceedings, the High Court has observed that no useful purpose will be served by prolonging the proceedings of the case. The aforesaid cannot be a good ground and/or a ground at all to quash the criminal proceedings when a clear case was made out for the offences alleged.

6.4 The High Court has not at all observed on how the order passed by the learned Magistrate summoning the accused was wrong and/or erroneous. The manner in which the High Court has disposed of the application under Section 482 Cr.P.C. and has quashed the criminal proceedings is deprecated. When serious allegations for the offences under Sections 307, 504, 506 of the IPC and Section 3(10)(15) of the Act were made, the High Court ought to have been more cautious and circumspect while considering the application under Section 482 Cr.P.C. and quashing the criminal proceedings for the aforesaid offences. Under the circumstances the impugned judgment and order passed by the High Court is unsustainable both on facts as well as in law.

7. In view of the above and for the reason stated above present appeal is allowed. The impugned judgment and order passed by the High Court under Section 482 Cr.P.C. in Criminal Misc. Application No.14607 of 2008 is hereby quashed and set aside. The order passed by the learned Magistrate summoning the accused is hereby restored.

Present appeal is accordingly allowed.