

MONU

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v.

STATE OF U.P. & ANR.

(Criminal Appeal No. 21 of 2019)

JANUARY 07, 2019

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**[ABHAY MANOHAR SAPRE AND
R. SUBHASH REDDY, JJ.]**

Code of Criminal Procedure, 1973 – s.482 – Quashing of charge-sheet – Charge-sheet filed under ss.420, 498A, 323, 376, 506 IPC and ss.3 and 4 of Dowry Prohibition Act, 1961 – Petition filed under s.482 for quashing the charge sheet – By impugned order, s.482 petition was dismissed by High Court on the ground that there was no illegality or perversity in the eyes of law and no good ground to interfere with the order of sessions judge – On appeal, held: In the impugned order, there was no appreciation of factual matrix of the case – The order was non-reasoned one and did not disclose application of mind to the case – Matter remitted to High Court for consideration afresh – Judgments/Orders – Non-reasoned order.

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Allowing the appeal and remitting the matter to High Court, the Court

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HELD: The Single Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix and then should have examined the challenge made to the proceedings on the question involved with a view to record the findings on the grounds urged by the appellant as to whether any case for interference therein is made out or not. The said exercise was not done by the High Court while passing an unreasoned impugned order, which does not disclose any application of mind to the case. [Paras 10, 11][53-B-D]

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CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 21 of 2019.

From the Judgment and Order dated 29.10.2018 of the High Court of Judicature at Allahabad in Application U/s 482 No. 33965 of 2018.

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A Vivek Gupta, Pranav Kashyap, Mrinmay Bhatt Mewara, Anirudh Joshi, Advs. for the appellant.

Krishnanand Pandey, Adv. for the respondent.

The Judgment of the Court was delivered by

B **ABHAY MANOHAR SAPRE, J.** 1. Leave granted.

2. This appeal is filed against the final judgment and order dated 29.10.2018 passed by the High Court of Judicature at Allahabad in an Application filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”) bearing No. 33965 of 2018 whereby the Single Judge of the High Court dismissed the application filed by the appellant herein.

3. Few facts need mention hereinbelow to appreciate the short controversy involved in this appeal.

D 4. By impugned order, the Single Judge dismissed the appellant’s application filed under Section 482 of the Code wherein the challenge was to set aside the charge sheet dated 18.09.2015 and 22.09.2017 framed by the Additional Sessions Judge/Fast Track, Court No.3, Muzaffarnagar arising out of Sessions Trial No.798 of 2017, **State vs. Monu** under Sections 420, 498A, 323, 376, 506 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) and Sections 3 and 4 of the Dowry Prohibition Act, 1961, Police Station- Mahila Thana, District- Muzaffarnagar.

E 5. The short question, which arises for consideration in this appeal, is whether the High Court was justified in dismissing the appellant’s application filed under Section 482 of the Code.

F 6. Heard learned counsel for the parties.

G 7. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to set aside the impugned order and remand the case to the High Court for deciding the appellant’s application, out of which this appeal arises, afresh on merits in accordance with law.

8. On perusal of the impugned order, we find that the Single Judge dismissed the application by passing the following order:

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“I have gone through the impugned order and I find that there is no illegality or perversity either in the eye of law. I do not find any good ground to interfere with the order impugned.” A

9. We are unable to know much less to appreciate even the factual matrix of the case after reading the impugned judgment. B

10. In our view, the Single Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix and then should have examined the challenge made to the proceedings in the light of the principles of law laid down by this Court on the question involved with a view to record the findings on the grounds urged by the appellant as to whether any case for interference therein is made out or not. C

11. We find that the aforementioned exercise was not done by the High Court while passing an unreasoned impugned order, which does not disclose any application of mind to the case. D

12. We, therefore, find ourselves unable to concur with such casual disposal of the application by the High Court and feel inclined to set aside the impugned order and remand the case to the High Court (Single Judge) with a request to decide the application afresh on merits in accordance with law keeping in view the aforementioned observations. E

13. Having formed an opinion to remand the case in the light of our reasoning mentioned above, we do not consider it proper to go into the merits of the case.

14. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned order is set aside. The case is remanded to the High Court for its decision on merits uninfluenced by any of our observations in this order. F