Sangeeta Agrawal vs The State Of Uttar Pradesh on 3 December, 2018

Equivalent citations: AIRONLINE 2018 SC 880, 2019 (2) SCC 336, (2018) 15 SCALE 401, (2018) 4 CRIMES 352, (2019) 1 ALLCRILR 442, (2019) 1 BOMCR(CRI) 469, (2019) 1 CRILR(RAJ) 17, 2019 (1) SCC (CRI) 722, (2019) 200 ALLINDCAS 76, 2019 CRILR(SC MAH GUJ) 17, 2019 CRILR(SC&MP) 17

Author: Abhay Manohar Sapre

Bench: Indu Malhotra, Abhay Manohar Sapre

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1543 OF 2018
(Arising out of S.L.P.(Crl.) No. 9650 of 2018)

Sangeeta Agrawal & Ors. ….Appellant(s)

VERSUS

State of Uttar Pradesh & Anr. ….Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.

2. This appeal is filed against the final judgment 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.31729 of 2018 whereby the Single Judge of the High

Court dismissed the application filed by the appellants herein.

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

4. By impugned order, the Single Judge of the High Court dismissed the appellants' application filed under Section 482 of the Code wherein the challenge was to quash the Charge Sheet dated 12.06.2018 as well as the entire criminal proceedings of Case No.2767 of 2018 (State vs. Arvind & Ors.) arising out of Case Crime No.79 of 2018 under Sections 498A, 304B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 3/4 of the Dowry Prohibition Act, 1961 Police Station Dhampur, District Bijnor, pending before the Chief Judicial Magistrate, Bijnor.

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

6. Heard Mr. Praveen Swarup, learned counsel for the appellants. None appeared for the respondents.

7. Having heard the learned counsel for the appellants and on perusal of the record of the case, we are inclined to set aside the impugned order and remand the case to the High Court for deciding the appellants' application, out of which this appeal arises, afresh on merits in accordance with law after notice to other side.

8. On perusal of the impugned order, we find that the Single Judge has only quoted the principles of law laid down by this Court in several decisions relating to powers of the High Court to interfere in the cases filed under Section 482 of the Code from Para 2 to the concluding para but has failed to even refer to the facts of the case with a view to appreciate the factual controversy, such as, what is the nature of the complaint/FIR filed against the appellants, the allegations on which it is filed, who filed it, the grounds on which the complaint/FIR/proceedings is challenged by the appellants, why such grounds are not made out under Section 482 of the Code etc.

9. We are, therefore, at a loss to know the factual matrix of the case much less to appreciate except to read the legal principles laid down by this Court in several decisions.

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 of the case and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court and then recorded his finding as to on what

basis and reasons, a case is made out for any interference or not.

11. In our view, this is the least that is required in every order to support the conclusion reached for disposal of the case. It enables the Higher Court to examine the question as to whether the reasoning given by the Court below is factually and legally sustainable.

12. We find that the aforementioned exercise was not done by the High Court while passing the impugned order and hence interference is called for.

13. We, therefore, find ourselves unable to concur with such 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 aforementioned observations after issuing notice to respondent Nos. 1 and 2.

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

15. 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 after notice to respondents.

... ...J. [ABHAY MANOHAR SAPRE]
.....J. [INDU MALHOTRA] New Delhi;

December 03, 2018