

Parteek Bansal
v.
State of Rajasthan & Ors.

(Criminal Appeal No. 2167 of 2024)

19 April 2024

[Vikram Nath* and Prashant Kumar Mishra, JJ.]

Issue for Consideration

Whether the High Court erred in not quashing FIR under Section 482 of Code of Criminal Procedure, 1973 in a complaint alleging offences under Sections 498A, 406, 384, 420, and 120(B), Indian Penal Code, 1860, on the ground that the second FIR was on the same set of allegations.

Headnotes

Code of Criminal Procedure, 1973 – s. 482 – Abuse of process of law – Subsequent FIR in Udaipur, Rajasthan on the same set of allegations by the complainant after two weeks of lodging the first FIR under Section 498A read with Section 34 IPC in Hisar, Haryana was an abuse of process of law.

Held: The inaction of the complainant in withdrawing the first complaint or allowing the investigating agency in Hisar to continue its investigation without taking steps to transfer the first complaint to Udaipur on the ground of commission of offence in Udaipur i.e., where the second FIR was filed constitutes an abuse of process of law. [Paras 7, 11]

Code of Criminal Procedure, 1973 – s. 482 – Non-application of mind by High Court – Findings of the High Court contradictory to the record and admitted facts.

Held: The record clearly shows that the subsequent complaint lodged at Udaipur contained the same allegations as in the first FIR at Hisar and additionally it was stated therein about the earlier complaint lodged at Hisar – Thus, the High Court erred in dismissing the quashing petition of the Appellant on the ground that the complaint in Udaipur was prior in point of time than the complaint in Hisar and the Rajasthan Police was unaware of the earlier proceedings. [Paras 7-12]

* Author

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Abuse of Process of Law – Misuse of State machinery for ulterior motives – The complainants' conduct of neither appearing before the trial court at Hisar nor withdrawing their complaint shows their intention to harass the appellant.

Held: The Court noticed that the Respondent No. 3 wife as a gazetted police officer at the relevant time and being well aware of the laws, in particular, CrPC, misused her position for filing one complaint after the other through her father (complainant) – Further, the conduct of the Complainant and Respondent wife of neither appearing before the Trial Court at Hisar nor withdrawing the complaint shows their intention to harass the Appellant by first making him face a trial in Hisar, which ultimately acquitted the Appellant, and then again at Udaipur – Accordingly, impugned FIR quashed with costs. [Paras 4, 11]

Case Law Cited

Prem Chand Singh v. State of UP (2020) 3 SCC 54;

T.T. Antony v. State of Kerala & Ors. [2001] 3 SCR 942;

Y. Abraham Ajith & Ors. v. Inspector of Police, Chennai & Anr. [2004] Supp. 3 SCR 604 – relied on.

List of Acts

Code of Criminal Procedure, 1973; Penal Code, 1860.

List of Keywords

Another complaint; Same allegations; Abuse of process; Intention to harass; Quashing; Criminal proceedings; Conduct; Failure to withdraw; Section 482 Cr.P.C.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No.2167 of 2024

From the Judgment and Order dated 06.03.2017 of the High Court of Judicature for Rajasthan at Jodhpur in SBCRM No. 3259 of 2015

Appearances for Parties

Rishi Malhotra, Jaydip Pati, Utkarsh Singh, Advs. for the Appellant.

Dr. Manish Singhvi, Uday Gupta, Sr. Advs., Ms. Shubhangi Agarwal, Apurv Singhvi, Anuj Gupta, Shailesh Joshi, D. K. Devesh, Ms. Shivani

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Lal, Gaurav Dave, M. K. Tripathi, Ms. Sanam Singh, Harish Dasan, Rajiv Ranjan, Rajeev Kumar Gupta, Ms. Yogamaya M. G., Hiren Dasan, Advs. for the Respondents.

Judgment / Order of the Supreme Court**Judgment**

Vikram Nath, J.

Leave granted.

2. This appeal assails the correctness of the judgement and order dated 06.03.2017 passed by the Rajasthan High Court in S.B. Criminal Misc. (Pet.) No. 3259 of 2015 dismissing the said petition filed under Section 482 of the Code of Criminal Procedure, 1973¹ for quashing the FIR No. 156 of 2015, Women Police Station, Udaipur under Sections 498A, 406, 384, 420 and 120(B) of Indian Penal Code, 1860².
3. At the outset, it would be relevant to mention that the sole ground on which the quashing was sought was that this was a second FIR on the same set of allegations made by the complainant after two weeks of lodging the first FIR being FIR No. 19 of 2015 under Section 498A read with Section 34 IPC, Police Station, Hisar, Haryana.
4. The relevant facts are briefly stated hereunder:
 - (i). The appellant and respondent No.3 came in contact with each other in June, 2014 through internet.
 - (ii). The complainant (respondent No.2) who is the father of respondent No.3 had visited the appellant in Udaipur, who is a Chartered Accountant based in Hisar, for proposal of marriage of his daughter (respondent No.3) who was at that time posted as Deputy Superintendent of Police at Udaipur, Rajasthan.
 - (iii). On 18.02.2015 engagement took place and thereafter on 21.03.2015, the marriage was solemnised at Udaipur. On 10.10.2015, the respondent No.2 filed a complaint at Police Station, Hisar, Haryana under Section 498A IPC etc. The said complaint was registered at Police Station Hisar on 17.10.2015 as FIR No. 19 of 2015 under Section 498A read with Section 34 IPC.

¹ In short, "Cr.P.C."

² In short, "IPC"

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- (iv). In the meantime, respondent No.2 submitted another complaint on 15.10.2015 i.e. five days after the first complaint at the Police Station, Udaipur in the State of Rajasthan on the same set of allegations as in the previous complaint. This complaint came to be registered on 01.11.2015 as FIR No. 156 under Section 498A/506 IPC etc.
- (v). In the first FIR No. 19 of 2015 along with the appellant other family members were also roped in. However, after further investigation, a Police Report under Section 173(2) Cr.P.C. was submitted in December, 2015 only against the appellant under Section 498A IPC. Based on the said Police Report, the Magistrate took cognizance and the trial proceeded and a case was registered as Crl. Case No. 232-I of 2015, in the Court of Judicial Magistrate, Ist Class, Hisar.
- (vi). In the meantime, the appellant filed a petition under Section 482 Cr.P.C. before the Rajasthan High Court for quashing of the second FIR No. 156 of 2015 registered at Udaipur. By the impugned order, the High Court has dismissed the said petition on 06.03.2017 primarily on two grounds. Firstly, that the complaint at Udaipur was prior in point of time than the complaint in Hisar. The second ground was that the Rajasthan Police was not aware of the earlier proceedings/complaint before the Hisar Police and as such the Udaipur Police should be at liberty to investigate the said complaint made at Udaipur.
- (vii). Aggrieved by the impugned order, the present petition was preferred before this Court on which notice was issued on 03.04.2017, and this Court also stayed further investigation in the FIR No. 156 dated 01.11.2015 P.S. Women Police Station, Udaipur, until further orders. As such the said FIR has not been investigated so far.
- (viii). After the impugned order was passed, the trial at Hisar was concluded, and the Trial Court vide judgement dated 02.08.2017 acquitted the appellant. Copy of the said judgment has been placed along with additional documents (I.A. No. 118201 of 2021).
- (ix). A perusal of the judgment and order of acquittal reflects that the prosecution examined ASI Sheela Devi Investigating Officer as PW-1 who proved the Police Papers, Head Constable Raja

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Ram as PW-2, who proved the documents relating to marriage etc., Jaipal Singh, DSP as PW-3, who also proved some of the police papers, and Sub Inspector Mane Devi as PW-4, who had prepared the Challan upon completion of the investigation.

- (x). The Trial Court further records that prosecution tried its best to secure the presence of the complainant and the victim but they did not turn up to depose before the Court. Left with no alternative, the Trial Court proceeded to close the evidence of the prosecution and after recording the statement of the appellant under Section 313 Cr.P.C., proceeded to hear the counsel for the parties and record the finding of acquittal.
- 5. Learned Counsel for the appellant has drawn our attention to both the complaints, the judgement of acquittal as also the errors apparent on the face of record in the impugned order regarding both the grounds, that the complaint at Udaipur was prior in point of time than that at Hisar, and secondly that the Rajasthan Police had no knowledge of the proceedings at Hisar.
- 6. Learned counsel for the respondents, both the State of Rajasthan as also the complainant, have vehemently argued that the Court at Hisar had no territorial jurisdiction as the offence had been committed at Udaipur, and therefore, the judgment of acquittal delivered by the Hisar Court was void. The complaint ought to have been examined and investigated by Rajasthan Police, but owing to the interim order passed by this Court the investigation has not proceeded as such the petition deserves to be dismissed. We have also been taken through the relevant statutory provisions under the Cr.P.C. in particular Sections 300, 177, 461 and Article 22 of the Constitution of India by the counsel for the parties and further reliance has also been placed on the following judgements:
 - (i). **Prem Chand Singh vs. State of UP³**
 - (ii). **T.T. Antony vs. State of Kerala & Ors.⁴**
 - (iii). **Y. Abraham Ajith & Ors. vs. Inspector of Police, Chennai & Anr.⁵**

3 (2020) 3 SCC 54

4 [2001] 3 SCR 942 : (2001) 6 SCC 181

5 [2004] Supp. 3 SCR 604 : (2004) 8 SCC 100

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The first two have been relied upon by the counsel for the appellant and the third by the counsel for the respondents.

7. Without going into these statutory provisions and the case laws relied upon by the parties, we are convinced that the impugned proceedings are nothing but an abuse of the process of law. It is not denied by the respondent Nos. 2 and 3 that they did not lodge complaint at Hisar. They also did not file an application withdrawing their complaint on the ground that it was wrongly filed here or that the said complaint may be transferred to Udaipur for investigation as the offence was committed at Udaipur. They allowed the investigating agency to continue to investigate in which their statements were also recorded. The respondent No.3 was a gazetted Police Officer at the relevant time and was also well aware of the laws, in particular the Cr.P.C. and the provisions thereto. Neither the complainant nor the victim entered the witness box before the Hisar Court allowing total wastage of the valuable time of the Court and the investigating agency. Merely because she was a Police Officer, she first managed to get an FIR lodged at Hisar through her father, and thereafter she moved to her hometown at Udaipur and got another complaint lodged by her father within a week.
8. The following admitted dates would be relevant to upset the finding of the High Court that the complaint at Udaipur was prior in point of time:
 - (i). Complaint at Hisar is dated 10.10.2015.
 - (ii). Complaint at Udaipur is dated 15.10.2015.
 - (iii). FIR registered at Hisar is dated 17.10.2015
 - (iv). FIR registered at Udaipur is dated 01.11.2015.On what basis the High Court recorded the finding that the complaint at Udaipur was prior in point of time is not discernible from the above dates and is contrary to the records and the admitted facts.
9. It is also not in dispute that in the complaint lodged at Udaipur, the allegations were the same as in the complaint at Hisar and additionally it was stated in the complaint at Udaipur that the complainant had earlier lodged a complaint at Hisar. Thus, the investigating agency at Udaipur was well aware of the complaint on similar allegations being lodged at Hisar. The High Court again fell in error in observing that

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the Rajasthan Police was not aware about the earlier proceedings initiated at Hisar. The High Court and the Rajasthan Police were expected to at least read the complaint carefully.

10. Thus, on both the counts, we find that the High Court fell in error in dismissing the petition of the appellant.
11. In the facts and circumstances as recorded above, we are of the view that respondent Nos. 2 and 3 had been misusing their official position by lodging complaints one after the other. Further, their conduct of neither appearing before the Trial Court at Hisar nor withdrawing their complaint at Hisar, would show that their only intention was to harass the appellant by first making him face a trial at Hisar and then again at Udaipur. It would also be relevant to note that the appellant had been arrested and thereafter granted bail. And now before this Court, the respondent Nos. 2 and 3 have been vehemently opposing the quashing of the FIR at Udaipur. We may also note that in the complaint made at Hisar, there are allegations to the effect that when respondent No.2 visited the appellant at Hisar, he had made a demand of Rs. 50,00,000/- and also an Innova Car. Thus, the argument that no offence was committed in Hisar but only at Udaipur was also not correct. We thus deprecate this practice of state machinery being misused for ulterior motives and for causing harassment to the other side, we are thus inclined to impose cost on the respondent No.2 in order to compensate the appellant.
12. In view of the above, the appeal is allowed. The impugned proceeding passed by the High Court is quashed, and the impugned proceedings registered as FIR No. 156 of 2015 dated 01.11.2015, Women Police Station, Udaipur are quashed with costs of Rs. 5,00,000/- (Rs. Five Lacs Only) which shall be deposited with the Registrar of this Court within four weeks and upon deposit of the same, 50% may be transmitted in the account of Supreme Court Legal Services Committee and the remaining 50% to the appellant.

Headnotes prepared by:

Ankitesh Ojha, Hon. Associate Editor
(Verified by: Liz Mathew, Sr. Adv.)

Result of the case:

Appeal allowed.