
(2011) 04 RAJ CK 0008

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No's. 360 and 364 of 2001

Chawli (Mst.)

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 29-04-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 203, 204

Citation : (2011) 4 RLW 3231

Hon'ble Judges : S.S. Kothari, J

Bench : Single Bench

Advocate : Mahendra Goyal, for the Appellant; Laxman Meena, Public Prosecutor and S.C Gupta, for the Respondent

Judgement

S.S. Kothari, J.

11. This Court, as well as various High Courts, in a catena of decisions have examined the gamut and significance of Section 202 of the Code and settled principle of law, the substance of which is as follows:

12. The scope of enquiry u/s 202 is extremely restricted only to finding out the truth or otherwise of the allegations made in the complaint in order to determine whether process should issue or not u/s 204 of the Code or whether the complaint should be dismissed by resorting to Section 203 of the Code on the footing that there is no sufficient ground for proceeding on the basis of the statements of the complainant and of his witnesses, if any. But the enquiry at that stage does not partake the character of a full dress trial which can only take place after process is issued u/s 204 of the Code calling upon the proposed accused to answer the accusation made against him for adjudging the guilt or otherwise of the said accused person. Further, the question whether the evidence is adequate for supporting the conviction can be determined only at the trial and not at the state of the enquiry contemplated u/s 202 of the Code. To say in other words, during the course of the enquiry u/s 202 of the code, the enquiry officer has to satisfy himself simply on the evidence adduced by the prosecution

whether prima facie case has been made out so as to put the proposed accused on a regular trial and that no detailed enquiry is called for during the course of such enquiry. Vide *Vadilal Panchal Vs. Dattatraya Dulaji Ghadigaonker and Another*, and *Pramatha Nath Talukdar vs. Saroj Ranjan*.

13. In the present case, the High Court appears to have exceeded the scope of the enquiry contemplated u/s 202 of the Code and has gone into the question of sufficiency of evidence for conviction of the offence of bigamy. Further, in view of the admission made by the learned counsel for the respondents admitting before us the marriage of Darshan Singh with Mohinder Pal the conclusion arrived at by the Court in the impugned order that the complaint does not contain any allegation of the performance of the marriage of Mohinder Pal with Darshan cannot be sustained and is liable to be set aside.

14. Lastly, relying on a decision of this Court in *Santi Deb Berma Vs. Smt. Kanchan Prava Devi*, to which one us (S. Ratnavel Pandian, J.) was a party, it as submitted by the learned counsel for the respondents that in the absence of an allegation that the marriage of Darshan Singh with Jagjit Kaur was celebrated in accordance with the customs dispensing with the requisite ceremonies and usage applicable to the parties, the alleged first marriage should be held to have been not proved in the eye of law. This submission is not available to him at this stage because that can be determined only at the stage of the trial of the case.

It would thus be clear from the two decisions of this Court that the scope of the inquiry u/s 202 of the Cr.P.C. is extremely limited - limited only to the ascertainment of the truth of falsehood of the allegations made in the complaint- (i) on the material placed by the complainant before the Court; (ii) for the limited purpose of finding out whether a prima facie case for issue of process has been made out; (iii) for deciding the question purely from the point of view of the complainant without at adverting to any defence that the accused may have.