
(2008) 06 AHC CK 0050
In the Allahabad High Court
Case No : Criminal M.A. No. 14300 of 2008

Jhabbu Lal and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 24-06-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 308, 323, 504, 506

Citation : (2008) 3 ACR 3052

Hon'ble Judges : R.K. Rastogi, J

Bench : Single Bench

Advocate : Ramashanker Shukla, for the Appellant; A.G.A., for the Respondent

Judgement

R.K. Rastogi, J.—This is an application u/s 482, Cr. P.C. for quashing the impugned charge-sheet No. 14/2007 in Case Crime No. C-5/2006 of P. S. Dannahar, District Mainpuri, under Sections 323, 504, 506 and 308, I.P.C. pending before 3rd Additional Civil Judge (J.D.)/Judicial Magistrate 1st Class, Mainpuri.

2. Since the point involved in this case is legal one, I have, with the consent of the parties, heard learned Counsel for the applicants as well as learned A.G.A., for the State and I am deciding it without calling for any counter-affidavit.

3. The facts relevant for disposal of this application u/s 482, Cr. P.C. are that the complainant-opposite party No. 2 moved an application against the accused-applicants u/s 156 (3), Cr. P.C. in the Court of Additional Chief Judicial Magistrate-I, Mainpuri levelling allegations under Sections 323, 504, 506 and 308, I.P.C. against the accused-applicants in respect of an incident which had allegedly taken place on 6.4.2005 at 6.00 p.m. with the mother of the applicant. This application was moved on 23.4.2005 and on this application, the learned Magistrate passed an order on 3.5.2005 directing the police to register the first information report and investigate the same. Then Case Crime No. 13 of 2005 under Sections 323, 504, 506 and 308, I.P.C. was registered at the Police Station

on 2.10.2005 and charge-sheet No. 113/ 2005 was submitted against all the accused-applicants under Sections 323, 504 and 506, I.P.C. on 29.10.2005. It appears that subsequently a copy of the aforesaid application u/s 156 (3), Cr. P.C. alongwith a carbon copy of the aforesaid order dated 3.5.2005 was again sent to the police station Dannahar for compliance and on the basis of that order again a first information report was registered in respect of the same incident as Case Crime No. C-5/2006. The police again investigated the case, though the investigation was conducted this time by another I.O. and this time the charge-sheet was submitted against all the accused under Sections 323, 504, 506 and 308, I.P.C. The number of this charge-sheet is 14/2007. It has been submitted that on this charge-sheet also, the Magistrate took cognizance and passed an order in respect of the accused. So, now the position is that in respect of one and same incident which had allegedly taken place on 6.4.2005 between the same parties, two F.I.Rs. were registered and two charge-sheets have been filed on the basis of those two first information reports and two separate cases bearing No. 2766 of 2005 and 325 of 2007 have been registered in the same Court.

4. Learned Counsel for the applicants submitted that when the earlier first information report had already been registered against the accused and a charge-sheet had also been submitted after investigation, there was no justification for registration of the second first information report and reinvestigation. This contention is correct. There cannot be two first information reports for the same offence against the same persons. Therefore, the second first information report, which had been registered as Case Crime No. 5 of 2006 is quashed and the charge-sheet submitted on the basis of that first information report is also quashed. However, taking into consideration that there are allegations in the first information report that there was fracture on the head of the mother of the complainant the Magistrate, at the stage of framing the charges shall consider this aspect of the case as to whether the mother of the complainant had received a fracture on her head or not, and if there was any fracture, what offence is prima facie made out against the accused in respect of that fracture on the head and then he shall proceed with the case registered as Case No. 2766 of 2005 on the basis of Case Crime No. 13 of 2005.

This petition u/s 482, Cr. P.C., is finally disposed of with the above observations.