

(2023) 06 GAU CK 0042
In the Gauhati High Court
Case No : Criminal Petition No. 1270 Of 2018

Mohsin Ahmed And 4 Ors.

APPELLANT

Vs

State Of Assam And Anr

RESPONDENT

Date of Decision : 15-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 226
Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 482
Indian Penal Code, 1860 — Section 120B, 384, 406, 420, 500

Citation : (2023) 06 GAU CK 0042

Hon'ble Judges : Parthivjyoti Saikia, J

Bench : Single Bench

Advocate : S.C. Biswas, B. Sarma, B. Buragohain

Final Decision : Dismissed

Judgement

1. Heard Mr. S.C. Biswas, the learned counsel appearing for the petitioners. Also heard Mr. B. Sarma, the learned Addl. Public Prosecutor representing the State of Assam. Mr. B. Buragohain, learned counsel represents the private respondent.

2. This is an application under Section 482 of the CrPC praying for quashing the FIR dated 13.07.2018 registered as Murajhar P.S. Case No.272/2018 under Sections 120(B)/406/384/420 and 500 of the Indian Penal Code (G.R. Case No.1709/2018).

3. The petitioner no.1 was maintaining relationship with a girl for about 7/8 years. He did not allow the girl to marry another person. Whenever proposals for marriage came to the girl, the petitioner no.1 would interfere and did not allow the proposals to proceed further.

4. Whenever the matter came to the knowledge of the family members of the girl, they contacted the family members of the petitioner no.1 for marriage. The family members of the petitioner no.1 also promised that the marriage of the petitioner no.1 would be solemnised with the said girl.

5. In the meantime, the petitioner no.1 was appointed as a police officer. The petitioner no.1 allegedly put pressure upon the girl to do her Masters in Arts and accordingly, she did her Masters in Arts.

6. Thereafter, the petitioner no.1 sent one emissary to the house of the girl with a proposal of marriage. The family members of the girl agreed to the proposal and decided to have social marriage on 13.07.2018. All the required rituals were performed for holding the marriage. The family members of the girl spent a large amount of money for buying articles for marriage. Even, invitation cards for the marriage were also distributed.

7. This time, the petitioner no.1 demanded an amount of `10 lakhs and threatened that if the money is not paid, he would not marry the girl.

8. Narrating the aforesaid facts, the elder brother of the girl lodged the FIR before police.

9. The petitioner no.1 denied the contents of the FIR. He has claimed that he was not allowed leave by his higher authorities for solemnisation of his marriage on 13.07.2018 and therefore, he asked for postponing the marriage.

10. I have considered the submissions made by the learned counsels of both sides.

11. The power under Section 482 of the CrPC is not an appellate power of the High Court. It is the inherent power of the High Court for preventing the abuse of the process of the court. The power under Section 482 of the CrPC is not meant to interfere into the power of a court sub-ordinate to the High Court.

12. The guidelines for exercising the power under Section 482 of the CrPC has been laid down by the Supreme Court in the State of Haryana v. Bhajan Lal, AIR 1992 SC 604. Para 102 of the said judgment is quoted as under:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an

investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

13. The Supreme Court has laid down that the power under Section 482 of the CrPC is to be sparingly used. Here, in this case, the trial is proceeding before the trial court and this Court is of the opinion that the facts and circumstances of this case, do not constitute a good case for exercising the power under Section 482 of the CrPC. If the power under Section 482 of the CrPC is exercised, it would amount to interference into the domain of the trial court.

14. For the aforesaid reasons, this Court is again of the opinion that this is not a fit case for exercising power under Section 482 CrpC. Accordingly, the criminal petition is found to be devoid of merit and stands dismissed.