
(2002) 09 AHC CK 0073
In the Allahabad High Court
Case No : C.M.W.P. No. 4910 of 2002

Munna Lal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 06-09-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173
Penal Code, 1860 (IPC) — Section 182

Citation : (2004) CriLJ 1527

Hon'ble Judges : U.S. Tripathi, J

Bench : Single Bench

Advocate : S.K. Mishra, for the Appellant; A.G.A., for the Respondent

Final Decision : Allowed

Judgement

U.S. Tripathi, J.—Heard learned counsel for the petitioner and the learned A. G. A.

2. This petition under Article 226 of the Constitution of India has been filed for quashing the order dated 9-7-2002 passed by the Chief Judicial Magistrate, Jhansi directing the Station Officer, P. S. Gurusarai, District Jhansi to initiate a proceeding u/s 182, I.P.C. against the petitioner and the order of the Revisional Court dated 20-7-2002 dismissing the revision of the petitioner.

3. The petitioner lodged a report against Smt. Savitri Devi, Halkey Ram, Akhilesh Ram and Kusuma Devi in-laws of his daughter Laxmi Devi with the allegation that marriage of Laxmi Devi was performed on 4-12-1998 with Shiv Kumar S/o Ram Sahai. After the marriage her in-laws started demand of dowry of Rs. 50,000/- and on refusal to pay the above dowry they started treating his daughter with cruelty. Thereafter, they also committed her dowry death on 20-6-2002 by burning her. On the above report a case at Crime No. 273 of 2002, u/s 498A, 304B, I.P.C. and Section 3/4, Dowry Prohibition Act was registered against the accused of the said case. During investigation the accused of the case namely Halkey Ram, Kushuma Devi and Akhilesh Ram were arrested by the

police and were sent to judicial custody till 9-7-2002. On 9-7-2002 the Investigating Officer of the case submitted report u/s 169, Cr.P.C. that there was no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused for further judicial custody. The learned Chief Judicial Magistrate accepted the above report and released the above accused on filing of personal bonds of Rs. 5.000/- each and also directed the S.O. concerned to initiate a proceeding u/s 182, I.P.C. against the petitioner. The petitioner filed revision against the said order dated 9-7-2002. The Revisional Court held that the report u/s 169, Cr.P.C. was accepted by the learned Magistrate and final report was submitted u/s 173, Cr.P.C. and there is no requirement of giving any notice to the petitioner before initiating proceeding under Section 182, I.P.C. With these findings it dismissed the revision vide order dated 30-7-2002.

4. The above orders have been challenged in this petition.

5. The contention of learned counsel for the petitioner was that no notice was given to the petitioner before initiating the proceeding u/s 182, I.P.C. This contention, in fact, has no force. Offence punishable u/s 182, I.P.C. is made out against the person whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant--

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person.

6. It appears that the Investigating Officer while submitting report u/s 169, Cr.P.C. for release of the accused of the case was of the view that the petitioner had lodged false report. It is not clear from the order of the Magistrate that the Investigating Officer has submitted final report in the case as required u/s 173, Cr.P.C. or not. Only on submission of final report it could be ascertained whether the report lodged by the petitioner was false or there was any sufficient evidence to submit charge-sheet against the accused of the case. Unless that stage had come the Magistrate had no sufficient ground to form an opinion that the petitioner had lodged false report and committed an offence punishable u/s 182, I. P. C. In fact, this proceeding, if necessary ought to have been started after submission and acceptance of final report. There would have been also a possibility that on submission of final report the petitioner was given notice and he would have filed protest petition and the learned Magistrate would have rejected the final report. In that situation it could not be said that the report lodged by the petitioner was false. Therefore, initiation of proceeding u/s 182, I.P.C. against the petitioner was premature.

7. The learned Sessions Judge while deciding the revision had also not considered this aspect and confirmed the order of the Magistrate holding that no

notice was required before initiating a proceeding u/s 182, I.P.C. But as mentioned above the stage of initiating proceeding in the instant case was premature. Therefore, the impugned orders are liable to be quashed.

8. The writ petition is, accordingly, allowed and impugned orders are quashed. However, it is made clear that in case final report is submitted or would have already been submitted the Magistrate shall issue notice to the petitioner and on hearing him shall pass appropriate order. In case he is again satisfied that there is sufficient evidence and reasonable ground to initiate proceeding u/s 182, I.P.C. against the petitioner, he may proceed in accordance with law.