

(2020) 11 J&K CK 0017

In the Jammu And Kashmir High Court

Case No : Criminal Miscellaneous Case No. 361 Of 2017

Neha Sharma And Others

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 11-11-2020

Acts Referred:

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 366
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2020) 11 J&K CK 0017

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : Aseem Sawhney

Final Decision : Dismissed

Judgement

Ali Mohammad Magrey, J

By medium of this petition, the petitioners/ accused are seeking quashing of FIR No.31/2017 registered against petitioner No.2 by Police Station, Arnia, District Jammu, for the commission of offence punishable under Section 366 of the erstwhile Ranbir Penal Code (RPC).

At the very first blush, what requires to be stated is that the power under Section 482 of the Code of Criminal Procedure has to be exercised sparingly with circumspection and in rarest of rare cases. Hon'ble the Supreme Court has, in a catena of decisions, deprecated the interference by the High Court in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure in a routine manner. Exercise of inherent power under Section 482 of the Code of Criminal Procedure is not the rule, but it is an exception. The exception is applied only when it is brought to the notice of the Court that grave miscarriage of justice would be committed if the trial is allowed to proceed where the accused would be harassed unnecessarily and if the trial is allowed to linger when, prima facie, it appears to the Court that the trial would likely end in acquittal. In other

words, the inherent power of the Court under Section 482 of the Code of Criminal Procedure can be invoked by the High Court either to prevent abuse of process of any Court or otherwise to secure the ends of justice. The remedy under Section 482 of the Code of Criminal Procedure can be, thus, invoked/pressed into service only: (i) to prevent abuse of process of Court; (ii) to secure the ends of justice; and (iii) to prevent mis-carriage of justice.

In 'State of Bihar vs Murad Ali Khan'; (1988) 4 SCC 655, the Apex Court of the country has held that the jurisdiction under Section 482 of the Code of Criminal Procedure has to be exercised sparingly and with circumspection and has given the working that in exercising that jurisdiction, the High Court should not embark upon an enquiry whether the allegations in the complaint are likely to be established by evidence or not.

While keeping in view the scope of Section 482 of the Code of Criminal Procedure, this Court cannot, prima facie, take a decision at the interlocutory stage when entire facts of the case are incomplete, hazy and, more so, when material evidence is yet to be collected and issues involved could not be seen in their true perspective. The power under Section 482 is not intended to scuttle justice at the threshold.

In view of the above discourse, this petition is found to be devoid of any merit. It entails dismissal and is, accordingly, dismissed alongwith all connected CrIM(s). Interim directions, if any subsisting as on date, shall stand vacated.