

(2008) 08 AHC CK 0132
In the Allahabad High Court

Ram Das Dohrey, Arjun Kumar Agarwal and Hari Babu	APPELLANT
Vs	
State of U.P. and Smt. Mehar Fatima	RESPONDENT

Date of Decision : 08-08-2008

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 406, 504, 506

Citation : (2008) 08 AHC CK 0132

Hon'ble Judges : V.K. Verma, J; Barkat Ali Zaidi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barkat Ali Zaidi, J.—Spiralling crime has reached the portals of the Bank. A mother and her daughter in Budaun City found her locker in the Bank of Baroda, Raees Market Branch, Budaun unlocked and burgled. It contained jewellery worth round 20 lacs.

2. The three bank officials, who are said to have been responsible for the same have been named in the First Information Report.

3. These three Bank officials have come to this Court under Article 226 of the Constitution of India seeking to quash the First Information Report lodged against them in this regard u/s 406,506 I.P.C. at P.S. Kotwali There is also an interim prayer for the authorities being restrained from arresting them.

4. We have heard Dr. Arun Srivastava, Advocate, Counsel for the petitioners and Sri Shamshuddin Ahmad, Addl. Government Advocate for the State.

5. The petition is liable to dismissal in, limine, because, the Supreme Court has unequivocally pronounced in a number of cases that a First Information Report can be quashed, only, when no offence is spelled out from the contents of the First Information Report.

6. Reference in this connection may be made of the case T. Vengara Naidu v.

Dora Swami Naidu and Ors. 2007 (2) Supreme 661 decided on 27.2.2007.

7. On the basis of the allegations contained in the First Information Report, it cannot be said that no offence is made out against the accused.

8. One of the contentions of the Counsel for the petitioners is that the mother would have removed the jewellery earlier from the locker. That is, however, a matter which will be a subject of investigation, and no presumption can be raised at this stage.

9. The other argument of the Counsel for the petitioners is that no offence under Sections 406, 504 Indian Penal Code is made out. No reason in the petition has been given, as to why, these offences are not made out. When there is an allegation of jewellery missing from the locker, a prima-facie offence is made out.

10. It cannot be said that in a situation like this, no offence will be made out. It was further pointed out that three of the petitioners have been in the service of the Bank for the last 31, 27 and 23 year respectively, and they have a clean record. No inference can be drawn from this circumstance, about the innocence, of the petitioners.

11. It was also pointed out by the learned Counsel for the petitioners that the financial status of the ladies was not such as to enable them to collect jewellery of around 20 lacs.

12. It was further argued by the Counsel for the petitioners that no description of the jewellery has been given in the First Information Report. These are matters of details to be discovered during investigation and no inference from them can be drawn, at this stage, about the allegations being false. It is disconcerting to note that, instead of being helpful, the petitioners were hostile and antagonistic.

13. The defalcation by the Bank employees should be deemed unpardonable, since it undermines, the confidence of the populace in financial institutions. If they feel Banks are unsafe where the people shall keep their money? It will create confusion and disruption in society, and any lenience, in such matters will be wholly misplaced.

14. Petition dismissed.