
(1994) 09 P&H CK 0004

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 6058-M of 1994

Reeta

APPELLANT

Vs

Parveen Sharma

RESPONDENT

Date of Decision : 21-09-1994

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 406, 498A

Citation : (1995) 2 DMC 155 : (1995) 1 RCR(Criminal) 523

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : K.G. Chaudhary, for the Appellant; Anil Khetarpal, for the Respondent

Judgement

V.K. Jhanji, J.—The present petition u/s 482 of the Code of Criminal Procedure has been filed for quashing the complaint and the order summoning the accused mentioned in the complaint including the petitioners. Complaint was filed by Smt. Parveen Sharma under Sections 406, 498A read with Section 120B, I.P.C. After recording the preliminary evidence, the Trial Magistrate on being satisfied that there are sufficient grounds to proceed against the accused persons, summoned all the accused under the aforesaid sections. Quashing of the complaint as well as the order of summoning the petitioners has been sought on the ground that petitioner No. 1 was hardly 12 years of age at the time of marriage and was not more than 15½ years at the time of filing of the complaint and also on the ground that in the complaint, there are only vague allegations against the petitioners.

2. After hearing the learned Counsel for the petitioners, I am of the opinion that no case is made out for quashing of the complaint and the order of summoning the petitioners at this stage. The petitioners, if they are so aggrieved of the order of summoning, can always file an application before the Trial Magistrate that process against them ought not to have been issued. The Magistrate is always empowered to drop the proceedings if he is satisfied on reconsideration of the

complaint that there is no offence for which the petitioners could be tried. In *K.M. Mathew v. State of Kerala and Anr.* 1992 (1) CLR 695 : I (1992) 316 (SC) Supreme Court has held that:

"Order of summoning is an interim order and not a judgment. It can be varied or recalled by the Magistrate and the proceedings against the accused can be dropped if the complaint on the face of it does not disclose any offence against the accused."

3. Accordingly, the petitioners shall be at liberty to make an appropriate application before the Trial Magistrate and in case they can satisfy the Trial Magistrate that no offence is made out against them, the Magistrate may pass appropriate order in this regard.

4. Personal appearance of the petitioners shall not be insisted upon and they shall be allowed to appear through their Counsel provided they give an undertaking in writing that they will appear as and when required by the Court. Petition stands disposed of accordingly.