
(2008) 12 AHC CK 0450

In the Allahabad High Court

Case No : Criminal M. Application No. 12624 of 2008

Smt. Sangita Singh and Another

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 19-12-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 161

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 120B, 193, 211, 420, 445

Citation : (2009) 2 ACR 1624

Hon'ble Judges : Ravindra Singh, J

Bench : Single Bench

Advocate : Nisar Uddin, for the Appellant; Sushil Shukla and A.G.A., for the Respondent

Judgement

Ravindra Singh, J.—Heard Sri Nisaruddin, learned Counsel for the applicants, learned A.G.A., for the State of U. P. and Sri Sushil Shukla, learned Counsel for O.P. No. 2.

2. From the perusal of the record it appears that interim order dated 23.5.2008 was passed by this Court by which this matter was sent to Mediation Centre but subsequently the application dated 18.6.2008 has been moved by learned Counsel for the applicants that this matter may not be sent to the Mediation Centre because it is not related to any matrimonial dispute.

3. Considering the submission made by learned Counsel for the applicants the application dated 18.6.2008 is allowed by not sending this matter to mediation centre and the applicant has not deposited its cost of Rs. 8,000 but it is submitted by both the parties that this matter may be disposed of finally.

4. This application has been filed with a prayer to quash the charge-sheet dated 24.3.2008 in Case Crime No. 226 of 2007 under Sections 420, 465, 469, 471, 193, 211, 500 and 120B, I.P.C. P. S. Naubasta, District Kanpur Nagar.

5. The facts in brief of this case are that the F.I.R. of this case has been lodged by Smt. Vijaylaxmi alias Poonam on 17.4.2007 at P.S. Naubasta in Case Crime No. 226 of 2007 under Sections 420, 445, 448, 469, 471, 193, 211, 500 and 120B, I.P.C. against the applicants and three other co-accused persons alleging therein that the marriage of the O.P. No. 2 was solemnized on 14.5.2003 with co-accused Subhas Verma, thereafter she was subjected to cruelty by her in-laws, this case was also lodged against them which is pending in the Court. In the counter blast the applicant and other co-accused persons made an allegation that she had performed the marriage with one Bhanu Pratap Singh on 20.2.2001 whereas she was not married with Bhanu Pratap Singh. The applicant and other co-accused person had sent a notice containing a false allegation to O.P. No. 2 and on the basis of that allegation a suit has been filed, they have also prepared a forged document including the compromise deed which have been filed in the Court and its publication has been made at their instance on 26.1.2007 in a daily Dainik Jagran newspaper. The matter was investigated by the I.O. who submitted the charge-sheet dated 24.3.2008 against the applicant and other co-accused persons by which the learned Magistrate concerned has taken the cognizance on 11.4.2008. It is contended by learned Counsel for the applicants that they have no concern with the alleged incident. The applicant No. 1 Smt. Sangeeta Singh had lodged an F.I.R. against O.P. No. 2 and others in Case Crime No. 110 of 2004 under Sections 498, 323, 504 and 506, I.P.C. and Section 3/4, D. P. Act at P.S. Kakadev, District Kanpur and she had filed an application against her husband Satyaveer Singh u/s 125, Cr. P.C. In its counter blast the applicant No. 1 Sangeeta Singh and her brother applicant No. 2 Amar Singh have been falsely implicated in the present case. The applicants have not committed any forgery and they have not filed any forged documents in the Court and the applicants are having no concern in any publication in daily Dainik Jagran newspaper. Bhanu Pratap Singh had filed a Case No. 9645 of 2006 against O.P. No. 2 and Subhas Verma who is first husband of O.P. No. 2 under Sections 494 and 498, I.P.C. There is dispute between the parties but for the purpose of harassment of the applicants the allegation have been made against them. It is surprising that without doing the fair investigation the I.O. had submitted the charge-sheet against the applicant also on which without perusing the police report the learned Magistrate concerned had illegally taken the cognizance. It is further contended that even on the basis of the allegation made against the applicants no offence is made out. In such circumstances the charge-sheet submitted against the applicants may be quashed.

6. In reply of the above contention, it is submitted by learned A.G.A. and counsel for O.P. No. 2 that on the basis of the allegation made against the applicants prima facie offence is made out. The applicants are named in the F.I.R., during investigation the I.O. has recorded the statement of the witnesses Smt. Vijaylaxmi alias Poonam, Ashok Kumar, Smt. Ram Kumari, Ram Das Verma, Smt. Maya Devi, Sri Ashok Kumar and Gir Raj Kishroe u/s 161. Cr. P.C. The list of the witnesses has been given in the charge-sheet, there was no illegality in filing of

the charge-sheet and learned Magistrate has taken the cognizance after perusing the police report. There is no illegality in the prosecution of the applicants also. At this stage it has to be considered whether on the basis of the allegation made against the applicants any offence is made out or not in which the police report shall be taken into account. No other material may be considered. The present application is devoid of merit and the same may be dismissed.

7. Considering the facts, circumstances of the case, submissions made by learned Counsel for the applicants, learned A.G.A. and learned Counsel for O.P. No. 2 and from the perusal of the record it appears that in the present case the F.I.R. has been lodged by O.P. No. 2 against the applicants and other co-accused person which discloses the commission of the offence, during investigation the I.O. has collected the evidence and recorded the statement of the witnesses u/s 161, Cr. P.C., who has supported the prosecution story, ultimately the charge-sheet has been submitted. The charge-sheet submitted by the I.O. prima facie discloses the commission of the offence. The learned Magistrate concerned also has committed no error in taking the cognizance. At this stage on the basis of taking the cognizance only police report has to be considered. The learned Magistrate concerned has considered the police report, thereafter taken the cognizance. There is no good ground for quashing the charge-sheet. Therefore, the prayer for quashing the charge-sheet of the present case is refused.

8. Further considering the facts and circumstances of the case, it is directed that in case applicants appear before the Court concerned within 30 days from today and apply for bail, the same shall be heard and disposed of on the same day under the provisions of law. Thereafter in case the applicants move discharge application before the Court concerned the same shall also be heard and disposed of under the provisions of law.

9. With this direction, this application is finally disposed of.