

(2019) 05 J&K CK 0066

In the Jammu And Kashmir High Court

Case No : Miscellaneous Criminal Cases (CRMC) No. 121 Of 2015 IA No. 142 Of 2015

Suman Sharma And Others

APPELLANT

Vs

State Of Jammu & Kashmir And Others

RESPONDENT

Date of Decision : 30-05-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 173, 221(7), 251A, 251A(3)(2), 349

Code Of Criminal Procedure, 1898 — Section 562

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 34, 109, 406, 498A

Indian Penal Code, 1860 — Section 498A

Citation : (2019) 05 J&K CK 0066

Hon'ble Judges : Sanjay Kumar Gupta, J

Bench : Single Bench

Advocate : Anil Khajuria, Ravinder Gupta, Garima Gupta

Judgement

Sanjay Kumar Gupta, J

1. Through the instant petition filed under Section 561-A of the Code of Criminal Procedure (hereinafter for short, Cr.P.C) petitioners seek quashment of order dated 20th February, 2015 passed by learned Principal Sessions Judge, Kathua in Cr. Revision titled State vs. Munish Sharma and ors, by virtue of which the order passed by the learned trial court on 22nd March, 2014 discharging the petitioner(s), has been set aside. It is further prayed for quashing of proceedings qua the petitioners in File No.84/Challan pending before the Court of learned Judicial Magistrate 1st Class (Munsiff) Kathua.

2. The case of the petitioners is that petitioners 1 and 2 are sisters of one Shakti Khajuria (Proforma respondent No. 3 herein), who are married at Pathankot and Samba respectively, whereas petitioner No.3 is the husband of petitioner No.1 and is residing at Pathankot. The marriage between proforma respondent No.3 and Eshata Sharma alias Ruchi alias Ruhi (respondent No. 2 herein) came to be solemnized on 4th January, 2013 at Kathua. But, immediately after marriage the

relationship between the couple went into rough weather due to certain reasons and it has also come into the knowledge of the proforma respondent No.3 that his wife (respondent No.2) was suffering from some Heart ailment for which she had undergone major heart surgery, on account of which she was not fit to perform her matrimonial obligations towards her husband and the family. It is stated that owing to the indifferences between the couple, the proforma respondent No. 3 preferred a divorce petition against the respondent No.2 on 29th March, 2013 and pursuant to the summons issued in the proceeding, respondent No 2 had reportedly appeared before the Court on 27th April, 2013. It is further stated that the petitioners were staying separately at different places and absolutely there was no occasion for them to have ever intervened in the matter as the petitioner Nos.1 and 2 are discharging their matrimonial duties at their respective matrimonial homes and the petitioner No.3 had no occasion to have ever participated or have ever interfered in anything. On 4th June, 2013, an application was filed by respondent No.2 before the Chief Judicial Magistrate, Kathua against the petitioners, which was forwarded in original to SHO Police Station, Kathua for investigation under law.

3. The grievance of the petitioners is that the aforesaid application filed by respondent No.2 was totally false, frivolous and actuated by mala fide on the part of respondent No.2 with ulterior motive to wreck vengeance against the petitioners for no other reason than the one that they are the relatives of the proforma respondents. After registration of the FIR (Supra), the investigation commenced and ultimately the investigating agency submitted the final report under Section 173 Cr.P.C which was transferred to the Court of learned Judicial Magistrate 1st Class (Munsiff), Kathua. The matter was taken up for arguments on charge by the learned trial court and by virtue of order dated 22nd March, 2014, trial court discharged the petitioners for the commission of offences alleged against them. The order dated 22.03.2014, passed by Judicial Magistrate 1st Class (Munsiff), Kathua came to be challenged by the State in Revision before the Court of learned Principal Sessions Judge, Kathua. The Revisional Court after hearing the parties, by virtue of order dated 20th February, 2015, set aside the order passed by learned trial court and directed for framing of charge against the petitioners with the further direction to the trial court for concluding the trial within six months from the date of framing of charge.

4. The petitioners are aggrieved of the order dated 20th February, 2015 passed by the learned Principal Sessions Judge, Kathua as well as the initiation and pendency of criminal proceedings against them, as such, they seek quashment of the order impugned dated 20.02.2015, as well as the FIR and Challan presented against the petitioners on following grounds:-

a. That the criminal proceedings initiated against the petitioners are so absurd and inherently improbable on the basis of which no prudent person can even reach a conclusion in respect of sufficiency of grounds for proceeding against them having regard to the admitted fact that the petitioners No. 1 and 2 being

the married sisters are staying at their respective matrimonial homes in Pathankot and Samba and the petitioner No 3 who is permanent resident of Pathankot. Therefore, the allegations leveled against the petitioners are thoroughly baseless and as such the proceedings against the petitioners are liable to be quashed.

b. That the Learned trial court while exercising powers under section 251-A of the Code of criminal procedure had rightly concluded that the charge against the petitioners is groundless. But, the Learned Revisional Court without going into the facts involved in the matter has generally held against the order passed by the learned trial court without even appreciating that there was no material available on record for framing the charge under Section 406 against the petitioners as there is no allegation as the FIR and the material collected during the course of investigation did not disclose against the petitioners.

c. That otherwise also the order passed by the Ld Principal Sessions Judge is otherwise against the fact and law.

d. That the petitioners are further assailing the criminal proceedings against them, notwithstanding what has been held by the Ld. Principal Sessions Judge as the criminal proceedings initiated against the petitioners are manifestly attended by mala fides with an ulterior motive of wrecking vengeance against the petitioners for no other reason except the one that they are the relatives of Proforma respondents herein.

e. That the whole proceedings can be viewed from the angle as admittedly the respondent No. 2 was taken to a cardiologist for thorough check up on 25th of March 2013 for ascertaining her ailment and for providing better treatment. Therefore, there was no occasion ever available to the petitioners to have acted in the manner as has been alleged in the FIR. More specially, the respondent No.2 has maintained an intriguing silence in her complaint or otherwise in respect of her ailment, as referred in the divorce petition which she was admittedly contesting as on the date of lodging of FIR.

f. That the divorce petition came to be filed just within a span of less than two months from the date of marriage in which the respondent No. 2 had appeared in the month of April 2013. Therefore, the inference of mala fides, afterthought and arm twisting tactics are manifest on the face of record.

g. That from the perusal of the divorce petition, though the averments made therein are subject to proof but having regard to the fact that there is no explanation forthcoming from the FIR or final report

submitted under Section 173 Cr.P.C in respect of the physical condition of the respondent No. 2, the respondent No.2 appears to have been suffering from physical disability of such an extent that she was unable to perform even day to day chores. Therefore, the allegations of cruelty alleged against the petitioners are thoroughly unjustified if not ill advised.

h. That the petitioners further reiterate that they are putting up separately in their matrimonial homes and the allegations leveled against them are false, frivolous, absurd and actuated by malafides and as such the petitioners seek the kind indulgence of this Hon'ble Court to quash the criminal proceedings against them in order to secure the ends of justice and in order to prevent the abuse of process of court."

5. I have heard counsel for parties. Counsel for petitioners has reiterated all grounds taken in petition. In support of his contention, learned counsel for the petitioners relies upon a decision of Hon'ble Supreme Court in case titled Preeti Gupta and another vs. State of Jharkhand and another reported in 2010 (7) SCC 667.

6. From the perusal of record, it is evident that respondent no.2 filed a criminal complaint against petitioners and proforma respondents under section 498-A/109/34 RPC before CJM, Kathua; it was sent to concerned police for investigation, who lodged FIR No.213/2013 on 15.6.2013 under section 498-A/109/34/RPC and after investigation produced the challan before JMIC Kathua; on 22.03.2014 JMIC discharged the petitioners, who are married sisters of complainant's husband and husband of Suman Sharma, and framed charges under section 498-A RPC against husband and mother-in-law of complainant.

7. The operative portion of order of JMIC reads as under: -

"Perusal of the charge sheet further transpires that the complainant has leveled allegations of cruelty against her husband, mother-in-law, two married sisters-in-law and one brother-in-law i.e. husband of her sister-in-law. File further transpires that one of the accused persons namely Pooja Sharma got married with Ram Lal and is staying at District Samba. Another two accused persons namely Suman Sharma and her husband Munish Sharma are staying at one village namely Sunder Chak, Tehsil and District Pathankot. It is clear that three of accused persons namely Suman, Munish and Pooja were not putting up with the complainant. It is highly improbable to assume that married sisters of the husband and brother-in-law (Jija) of husband and they are living separately in their matrimonial homes subject her to cruelty for demand of dowry, invariably whenever matrimonial relations turned sore, there is tendency on the part of the complainant to make all kinds of wild and reckless allegations against the entire family of the husband.

Majority of complaints are filed on the advice of members of family or with their concurrence with exaggerated versions. A large number of complaints are not bonafide and are filed with oblique motive. At the same time, there is an apparent increase in number of genuine cases of dowry harassment. It is also a matter of common knowledge that exaggerated version of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. It has been alleged by the accused persons that they have falsely been implicated in this case, and

complaint against them is totally without any basis or foundation. Learned counsel for accused persons also asserted that even if all the allegations incorporated into complaint are taken to be true, even then no offence can be made out against accused persons.

After considering the police report and documents u/s 173 Cr.P.C. I am of the considered opinion that the charge sheet against the accused (3-5) is groundless because a charge is not an accusation in abstract but a concrete accusation of an offence alleged to have been committed by a person in respect of an offence committed or omitted in violation of a penal law forbidding or commanding it. It is also not correct to say that court cannot apply its judicial mind to the consideration whether or not there is any ground for presuming commission of offence because it affects a person's liberty. The responsibility of framing of charge is that of the court and it has to judicially consider the question of doing so. Without fully advertent to the material, on record, it must not blindly adopt the decision of the prosecution that accused be asked to face the trial. The Magistrate must take part in proceedings and exercise due care while framing the charge. But the court should not be merely a disinterested spectator of the contest between prosecution and the defence.

Moreover, criminal proceedings are manifestly attended with mala fide and where the proceedings are maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to some grudges. It is a matter of common experience that most of these complaints under section 498-A are filed in the heat of the moment of birth control issues without proper deliberations. Rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern. Unfortunately, at the time of filing of the complaint, the implications and consequences of not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

While considering the case on the prayer of accused for discharging the accused persons. Elaborate enquiry, much less dissection of the material brought by police before the court is not permissible. However, prima facie case, accepting the statements as recorded has to be made out. And if after scrutinizing the statements and other materials produced by the prosecution before the court, such a case is not made out, with a view to prevent the miscarriage of justice as well as for securing the ends thereof, court should not hesitate but discharge the accused.

In the wake of the above made discussion, I came to the conclusion, that if the prosecution challan is taken as unrebutted the conviction will not entail after the whole trial against accused no 3-5. But accused no.1&2 are required to be charge sheeted under section 498-A/406/34 RPC, because there is sufficient material against the accused number 1 and 2. As accused no. 1 is not present today, so accused persons, cannot be chargesheeted today. So far as accused no. 3-5 are concerned, they are discharged. Their personal and surety bonds stands

discharged. Put file on 05-04-14 for framing of formal charge against accused no.1 and 2."

8. Against order of discharge, State preferred revision which was allowed and JMIC was directed to frame charges against petitioners also. Similarly, the operative part of the order dated 20.02.2015, passed by Principal Sessions Judge, Kathua reads as under:-

"6. Sub-section (2) and sub-section (3) of Section 251-A Cr.P.C provides two situations. One when the accused can be discharged and second when the accused can be charged. It is clear from the provisions contained in sub-section (2) that when upon consideration of all the documents referred to in section 173 and making such examinations, if any of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge him. So the order of discharge can be recorded regarding the accused when the charge against the accused is found to be groundless. However, when the Magistrate is of the opinion that there is ground for presuming that accused has committed an offence triable, he shall frame in writing charge against the accused. For framing the opinion whether charge is groundless or whether there are means to presume that the offence has been committed, what is to be considered at the time of framing of the charge is the report of the police, documents relied upon and the statements of the witnesses recorded during the course of investigation. It is on the basis of all these documents and the statements recorded that such an opinion can be framed, so as to pass an order framing the charge against the accused.

7. The trial court after having considered the police report, documents relied upon and after considering the arguments of learned counsel for respondents/accused as well as the prosecution, came to the conclusion that no charge can be framed against the respondents/accused. Question, which is to be considered, is whether order passed by the trial court discharging the respondents/accused can sustain in view of the provisions contained in Section 251-A Cr.P.C and on consideration of the record on file, what the trial court was to consider to give its finding was the challan, complaint on the basis of which the challan has been presented, the respondents/accused have been charged and the statements of the witnesses recorded during the course of Investigation. Whether the allegations are true or not, whether the allegations are false cannot be determined at the stage when the case is to be considered for framing of the charge. It is a matter of trial to give the finding regarding the allegations contained in the complaint, charge-sheet and the statements of the witnesses. Giving a finding regarding the same at the stage of charge/discharge will amount to deciding a case before trial. Allegations contained in the complaint on the basis of which FIR was registered and investigation was conducted, statements of the complainant and other witnesses, prima facie, make out a case for commission of offences as alleged in the challan against the accused, who have

been discharged. At the stage of framing of the charge and recording an order of discharge, the evidence collected during investigation is only to be taken into consideration. The learned trial court, while discharging the respondents/accused and holding that there is no case, has fallen in error and it amounts to deciding the allegations against the accused, who have been discharged before holding the trial. The order of discharge passed by the learned trial court, thus, is not legally correct. The learned trial court while passing the order of discharge against the respondents/accused has committed material irregularities and as such, the order passed by the trial court is set aside. Record of the trial court be sent back along with a copy of this order with the direction to frame the charge against the respondents/accused and further that the trial of the case shall be taken expeditiously. The case shall be taken up fortnightly and the prosecution shall produce the evidence without failure on each hearing. The trial court shall also try to conclude the trial within six months from the date of framing of the charge. Accused shall appear before the trial court on 27th of February, 2015."

8. This revision petition is disposed off and be consigned to records."

9. The offence under section 498-A RPC is warrant trial by magistrate. Its procedure has been given in chapter XXI of Cr.P.C. In police case magistrate has to follow the procedure laid down in section 251-A Cr.P.C. Section 251-A Cr.P.C. reads as under:-

"Section 251-A. Procedure to be adopted in cases instituted on police report.- (i) when, in any case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of a trial, such Magistrate shall satisfy himself that the documents referred to in Section 173 have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished.

(2) If, upon consideration of all the documents referred to in Section 173 and making such examination, if any of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused' an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge him.

(3) If, upon such documents being considered, such examination, if any being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(4) The charge shall then be read and explained to the accused and he shall be asked whether he is guilty or claims to be tried.

(5) If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

(6) If the accused refuses to plead, or does not plead, or claims to be tried, the Magistrate shall fix a date for the examination of witnesses.

(7) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced *[in support of the prosecution except such evidence which the accused may admit in an application made in this behalf]: *[In clause (7) words were inserted for "in support of prosecution" by Act 1 of 2010 dated 27-01-2010 w.e.f. 28-01-2010]

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined, or recall any witness for further cross-examination.

(8) The accused shall then be called upon to enter upon his defence and produce his evidence; and if the accused puts in any written statement, the Magistrate shall file with the record.

(9) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that when the accused as cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this Section unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(10) The Magistrate may, before summoning any witness on such application under sub-Section (9), require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in Court.

(11) If, in any case under this Section in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(12) Where in any case under this Section, the Magistrate does not proceed in accordance with the provisions of Section 349 or Section 562 he shall, if he finds the accused guilty, pass sentence upon him according to law.

(13) In a case where a previous conviction is charged under the provisions of Section 221, sub-Section (7), and the accused does not admit that, he. has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under sub-Section (5) or sub-Section (12), take evidence in respect of the alleged previous conviction and shall record a finding thereon.]"

10. From bare perusal of this section, it is evident that the object behind the differentiation of the procedure of trial of warrant cases is to accomplish speedy

disposal of the cases. It cannot be said that the Court at the stage of framing the charge has not to apply its judicial mind for considering whether or not there is a ground for presuming the commission of the offence by the accused. The order framing the charges does substantially affect the person's liberty and it cannot be said that the Court must automatically frame the charge merely because the prosecuting authorities, by relying on the documents referred to in Section 173 considered it proper to institute the case. The responsibility of framing the charge is that of the Court and it has to judicially consider the question of doing so. Without fully advertent to the material on record it must not blindly adopt the decision of the prosecution.

11. As per this section, on examination of documents etc., consequent satisfaction of the Court is the condition precedent for framing charge. If, upon consideration of all the documents referred to in Section 173 and making such examination, if any of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge him. In any case whether to charge or discharge court has to apply judicial mind. This means court has to see as to whether from facts of case essential ingredients of alleged offence are made out or not, because framing of charge on mere saying of prosecution would amount to serious consequences and violation of valuable right of an innocent person.

12. In present case, as is evident from contents of complaint and admitted position, petitioner Nos.1 and 2 are sisters of one Shakti Khajuria (Proforma respondent No.3 herein who was married with Eshata Sharma alias Ruchi alias Ruhi respondent No.2 herein). They are residing at Pathankot and Samba respectively, whereas petitioner No.3 is the husband of petitioner No. 1. JMIC has categorically held that there was no prima facie case for framing of charges against petitioners. From the perusal of written complaint lodged by complainant, on the basis of which, FIR was lodged, it is evident that whole family of husband of the complainant has been involved; petitioner Nos.1 & 2, who are married sisters of husband of complainant, and petitioner No.3, who is husband of petitioner No.1, though are living separately far away from complainant and her husband at the relevant time, have been involved in the case. There are no specific allegations against the petitioners except bald version that petitioners have instigated the other accused to treat complainant with cruelty. There are omnibus and general allegations against the petitioners;

13. The order of JMIC of discharge is reasoned order; whereas from perusal of order of Sessions court, it is evident that except narrating the principles of charge or discharge, there is nothing on record from which it can be inferred that, it is reasoned order.

14. In Preeti Gupta & Anr vs State of Jharkhand & Anr. reported in 2010 (7) SCC 667 held as under:-

"27. Admittedly, appellant no.1 is a permanent resident of Navasari, Surat, Gujarat and has been living with her husband for more than seven years. Similarly, appellant no.2 is a permanent resident of Goregaon, Maharashtra. They have never visited the place where the alleged incident had taken place. They had never lived with respondent no.2 and her husband. Their implication in the complaint is meant to harass and humiliate the husband's relatives. This seems to be the only basis to file this complaint against the appellants. Permitting the complainant to pursue this complaint would be an abuse of the process of law.

28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

29. The courts are receiving a large number of cases emanating from section 498-A of the Indian Penal Code which reads as under:-

"498-A. Husband or relative of husband of a woman subjecting her to cruelty.--Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.--For the purposes of this section, 'cruelty' means:-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to

ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.

36. When the facts and circumstances of the case are considered in the background of legal principles set out in preceding paragraphs, then it would be

unfair to compel the appellants to undergo the rigmarole of a criminal trial. In the interest of justice, we deem it appropriate to quash the complaint against the appellants. As a result, the impugned judgment of the High Court is set aside. Consequently, this appeal is allowed."

15. In view of what has been discussed above, this petition is allowed; order of Sessions Judge is set aside and that of trial court is restored and petitioners are discharged from array of accused. Record be sent back. Stay, if any, is vacated.