

LAJPAT & ORS.

A

v.

STATE OF UTTAR PRADESH & ANR.

(Criminal Appeal No. 1569 of 2018)

DECEMBER 06, 2018

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[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

Code of Criminal Procedure, 1973: s. 482 – Application under, to quash charges under Penal Code – Dismissal of, by the Single Judge quoting principles of law laid down by this Court relating to powers of the High Court to interfere in cases filed u/s. 482 but without mentioning the facts of the case – On appeal held: Single Judge ought to have first set out the brief facts of the case with a view to understand the case and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court and then recorded his finding as to on what basis and reasons, a case is made out for any interference or not – Such disposal of the application by the High Court cannot be concurred with – Matter remanded to the High Court to decide the application afresh.

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Allowing the appeal, the Court

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HELD : 1.1 The Single Judge has only quoted the principles of law laid down by this Court in several decisions relating to powers of the High Court to interfere in the cases filed under Section 482 Cr.P.C. but has failed to even refer to the facts of the case with a view to appreciate the factual controversy, such as, what is the nature of the complaint/FIR filed against the appellants, the allegations on which it is filed, who filed it, the grounds on which the complaint/FIR/proceedings is challenged by the appellants, why such grounds are not made out under Section 482 of the Code etc. Therefore, this Court is at a loss to know the factual matrix of the case much less to appreciate except to read the legal principles laid down by this Court in several decisions. [Paras 8, 9][1109-D-F]

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1.2 The Single Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix of

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A the case and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court and then recorded his finding as to on what basis and reasons, a case is made out for any interference or not. This is the least that is required in every order to support the conclusion reached for disposal of the case. It enables the Higher Court to
B examine the question as to whether the reasoning given by the Court below is factually and legally sustainable. The said exercise was not done by the High Court while passing the impugned order and hence interference is called for. Such disposal of the application by the High Court cannot be concurred with and
C impugned order is set aside and the case is remanded to the High Court to decide the application afresh on merits in accordance with law. [Paras 10-13][1109-F-H; 1110-A-C]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1569 of 2018.

D From the Judgment and Order dated 10.09.2018 of the High Court of Judicature at Allahabad in Criminal Misc. Application No. 35 of 2017.

Siddharth Mittal, Adv. for the Appellants.

E Manoj Mishra, Ankit Pandey, Shashank Shekhar Singh Advs. for the Respondents.

The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J.

1. Leave granted.

F 2. This appeal is filed against the final judgment and order dated 10.09.2018 passed by the High Court of Judicature at Allahabad in an Application No.35 of 2017 filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”) whereby the Single Judge of the High Court dismissed the application filed by the appellants herein.

G 3. Few facts need mention *infra* to appreciate the short controversy involved in this appeal.

H 4. By impugned order, the Single Judge of the High Court dismissed the appellants’ application filed under Section 482 of the Code wherein the challenge was to quash Charge Sheet No.1 dated 07.05.2016 in

Case Crime No.441 of 2015 under Sections 420, 406 and 504 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”), P.S. Khair, District Aligarh in Case No.486 of 2016 (**State vs. Lajpat & Ors.**) pending in the Court of Judicial Magistrate, Khair, Aligarh. A

5. The short question, which arises for consideration in this appeal, is whether the High Court was justified in dismissing the appellants’ application filed under Section 482 of the Code. B

6. Heard Mr. Siddharth Mittal, learned counsel for the appellants. Mr. Manoj Mishra, learned counsel was asked to take notice for the State.

7. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to set aside the impugned order and remand the case to the High Court for deciding the appellants’ application, out of which this appeal arises, afresh on merits in accordance with law after notice to other side. C

8. On perusal of the impugned order, we find that the Single Judge has only quoted the principles of law laid down by this Court in several decisions relating to powers of the High Court to interfere in the cases filed under Section 482 of the Code from Para 2 to the concluding para but has failed to even refer to the facts of the case with a view to appreciate the factual controversy, such as, what is the nature of the complaint/FIR filed against the appellants, the allegations on which it is filed, who filed it, the grounds on which the complaint/FIR/proceedings is challenged by the appellants, why such grounds are not made out under Section 482 of the Code etc. D E

9. We are, therefore, at a loss to know the factual matrix of the case much less to appreciate except to read the legal principles laid down by this Court in several decisions. F

10. In our view, the Single Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix of the case and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court and then recorded his finding as to on what basis and reasons, a case is made out for any interference or not. G

11. In our view, this is the least that is required in every order to support the conclusion reached for disposal of the case. It enables the H

- A Higher Court to examine the question as to whether the reasoning given by the Court below is factually and legally sustainable.

12. We find that the aforementioned exercise was not done by the High Court while passing the impugned order and hence interference is called for.

- B 13. We, therefore, find ourselves unable to concur with such disposal of the application by the High Court and feel inclined to set aside the impugned order and remand the case to the High Court (Single Judge) with a request to decide the application afresh on merits in accordance with law keeping in view the aforementioned observations after issuing notice to respondent Nos. 1 and 2.

C 14. Having formed an opinion to remand the case in the light of our reasoning, we do not consider it proper to go into the merits of the case.

- D 15. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned order is set aside. The case is remanded to the High Court for its decision on merits uninfluenced by any of our observations in this order after notice to the respondents.