

A SANGEETA AGRAWAL & ORS.

v.

STATE OF UTTAR PRADESH & ANR.

(Criminal Appeal No. 1543 of 2018)

B DECEMBER 03, 2018

[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

Code of Criminal Procedure, 1973: s.482 – Quashing of proceedings – Complaint filed under ss.498A, 304B IPC – Application for quashing the proceedings filed under s.482 dismissed by the High Court – On appeal, held: High Court did not mention the bare facts of the case with a view to appreciate the factual controversy – High Court 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 and then recorded his finding as to on what basis and reasons, a case is made out for any interference or not – Matter remitted to High Court for consideration afresh – Penal Code, 1860 – ss.498A and 304B.

Allowing the appeal and remanding the matter to High court, the Court

HELD : 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. 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 examine the question as to whether the reasoning given by the Court below is factually and legally sustainable. This exercise was not done by the High Court while passing the impugned order and hence interference is called for. [Paras 10, 11 and 12] [464-D-F]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal A
No. 1543 of 2018.

From the Judgment and Orders dated 12.09.2018 of the High Court of Judicature at Allahabad in Application u/s 482 No. 31729 of 2018.

Praveen Swarup, Ms. Chitra Chaudhary, Shashank Singh, B
Prashant Chaudhary, Advs. for the Appellants.

The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J.

1. Leave granted.

2. This appeal is filed against the final judgment and order dated C
12.09.2018 passed by the High Court of Judicature at Allahabad in an Application filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”) bearing No.31729 of 2018 whereby the Single Judge of the High Court dismissed the application filed by the appellants herein. D

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

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 the Charge Sheet dated 12.06.2018 as well as the entire criminal proceedings of Case No.2767 of 2018 (**State vs. E
Arvind & Ors.**) arising out of Case Crime No.79 of 2018 under Sections 498A, 304B of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) and Section 3/4 of the Dowry Prohibition Act, 1961 Police Station Dhampur, District Bijnor, pending before the Chief Judicial Magistrate, F
Bijnor.

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.

6. Heard Mr. Praveen Swarup, learned counsel for the appellants. G
None appeared for the respondents.

7. Having heard the learned counsel for the appellants 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. H

A 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.

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C 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.

D 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.

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

F 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.

G 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 aforementioned observations after issuing notice to respondent Nos. 1 and 2.

H 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.

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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 respondents. A

Devika Gujral

Matter remanded to High Court.