

A

GEETA & ORS.

v.

STATE OF UTTAR PRADESH & ANR.

(Criminal Appeal No. 1544 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 s.498A 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, such as, what was the nature of the complaint/FIR filed against the appellants, the allegations on which it was filed, the offences under which appellants prosecution was sought, who filed the complaint/FIR/proceedings, whether it pertained to a cognizable offence or not, the grounds on which the complaint/FIR/ proceedings was challenged, why such grounds were not made out under s.482 of the Code etc. – High Court ought to have first set out the brief facts of the case with a view to understand the factual matrix and then examined the challenge made to the proceedings to record the findings as to on what basis and the reasoning, these principles apply to the facts of the case at hand so as to either call for any interference therein or not – Matter remitted to High Court for consideration afresh – Penal Code, 1860 – s.498A.

F

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

HELD : A perusal of the impugned order, showed that the Single Judge has only quoted the principle of law laid down by this Court in several decisions relating to powers of the High Court on the issue of interference in cases filed under Section 482 of the Code but has failed to even refer to the facts of the case at hand much less in detail to appreciate the factual controversy. The Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court to enable him to

H

record the findings as to on what basis and the reasoning, these principles apply to the facts of the case at hand so as to either call for any interference therein or not. Indeed, this is the least that is required in the order in support of the conclusion. It enables the Higher Court to appreciate the facts in its proper perspective and also enable to examine the question as to whether the reasoning given is factually and legally sustainable. This exercise was not done by the High Court while passing the impugned order. [Paras 8, 11-13][468-C-D, F-H; 469-A-B]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1544 of 2018.

From the Judgment and Orders dated 05.09.2018 of the High Court of Judicature at Allahabad in Application u/s 482 No. 29904 of 2018.

Pradeep Kumar Yadav, Gaurav Jain, Ms. Sheenu Chauhan, Vijay Kumar Sharma, Sanjeev Malhotra, 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 05.09.2018 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.29904 of 2018 whereby the Single Judge of the High Court dismissed the application filed by the appellants herein.

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’ petition filed under Section 482 of the Code wherein the challenge was to quash the order dated 18.06.2018 as well as the entire proceedings in in Complaint Case No. 537/2018 under Section 498-A of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) Police Station Dhanuara, Dist. Amroha, J.P. Nagar pending in the Court of 2nd Additional Civil Judge (Junior Division) Judicial Magistrate, Amroha, JP Nagar.

A

B

C

D

E

F

G

H

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.

6. Heard Mr. Pradeep Kumar Yadav, learned counsel for the appellants. None appeared for the respondents.

B 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.

C 8. On perusal of the impugned order, we find that the Single Judge has only quoted the principle of law laid down by this Court in several decisions relating to powers of the High Court on the issue of interference in 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 at hand much less in detail to appreciate the factual controversy.

D 9. In other words, the Single Judge has not mentioned the bare 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, the offences under which appellants prosecution is sought, who filed the complaint/FIR/proceedings, whether it pertains to a cognizable offence or not, the grounds on which the complaint/FIR/ proceedings is challenged, why such grounds are not made out under Section 482 of the Code etc.

E 10. 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 11. In our view, the learned Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court to enable him to record the findings as to on what basis and the reasoning, these principles apply to the facts of the case at hand so as to either call for any interference therein or not.

G 12. Indeed, this is the least that is required in the order in support of the conclusion. It enables the Higher Court to appreciate the facts in

H

its proper perspective and also enable to examine the question as to whether the reasoning given is factually and legally sustainable. A

13. We find that the aforementioned exercise was not done by the High Court while passing the impugned order.

14. We, therefore, find ourselves unable to concur with 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. B

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

16. 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. D