

Rabinder Kaur and ors Vs. State and anr

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Court : Delhi

Decided On : Nov-27-2014

Judge : V.P.Vaish

Appellant : Rabinder Kaur and ors

Respondent : State and anr

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 5364/2013 Date of decision:

27. h November, 2014 RABINDER KAUR & ORS Through: Petitioners Mr.D.N. Goburdhun & Mr.Balendu Shekhar, Advs. versus STATE & ANR Through: Respondents Mr.Vinod Diwakar, APP for the State. SI Puneet Bharti, PS Sarai Rohilla. Mr.P.P. Singh Rana, Adv. for R2. CORAM: HON'BLE MR. JUSTICE VED PRAKASH VAISH VED PRAKASH VAISH, J.

(ORAL) 1. This is a petition under Section 482 Cr.P.C. against order dated 27.06.2013 passed by learned Metropolitan Magistrate, Tis Hazari Courts, Delhi whereby the cognizance was taken in case FIR No.370/2012 under Sections 323/452/506/34 IPC registered at PS Sarai Rohilla, Delhi.

2. In a nutshell, the facts giving rise to the present petition are that respondent No.2/Jasleen Kaur herein lodged FIR No.370/2012 on 23.10.2012. In the FIR, the complainant has stated that he was married with Surender Kumar on 19.05.2012

and her parents were not happy with the said marriage. On 23.10.2012 at about 2.30 p.m, her mother Rabinder Kaur, her brother Richi Arora and her sister Prabhnit Kaur came to her house and started beating her while saying that she had done an inter caste marriage and they would not leave her alive, her husband intervened and the said three persons started abusing and giving beating him as well. All the said three persons threatened her and her husband with dire consequence. On completion of investigation, charge-sheet for the offence under Sections 323/452/506/34 IPC was filed. Vide impugned order dated 27.06.2013, learned trial Court took cognizance of the offence under Sections 323/452/506/34 IPC.

3. Feeling aggrieved by the said order, the petitioner has filed the present petition.

4. Learned counsel for the petitioners urges that respondent No.2/complainant gave a complaint dated 18.02.2013 to DCP North and in the said complaint it was mentioned that the call detail records of respondent No.2 shows that respondent No.2 had called the petitioners. He has also pointed out that the police officers were sitting at the house of complainant on 23.10.2012 and the allegations in the complaint are false.

5. Learned counsel for the petitioner relied upon judgments in Priya Vrat Singh and Others v Shyam Ji Sahai (2008)8 SCC232 Indian Oil Corporation v NEPC India Ltd. and Others (2006) 6 SCC736 R. Kalyani v Janak C. Mehta and Others (2009) 1 SCC516 M.M.T.C. Limited v Commissioner of Commercial Tax and Others (2009) 1 SCC8 Mahindra & Mahindra Financial Services Limited and Another (2009) 1 SCC706 to contend that in case the criminal proceedings are unwarranted, this Court can in exercise of powers under Section 482 Cr.P.C. quash the proceedings.

6. After having heard learned counsel for both the parties, complaint/FIR and the impugned order as well as material on record, it becomes evident that on bare reading of the complaint, it cannot be said that no case for summoning the petitioners is made out.

7. It is a well settled law that on filing of report under Section 173 Cr.P.C., if the Magistrate is satisfied that a prime facie case has been made out to go to trial, the Magistrate will issue process and summons and take cognizance. On this aspect, pertinent observations of the Apex Court in Bhushan Kumar & Anr. vs. State of (NCT of Delhi), (2012) 5 SCC424 are as under:12. A summons is a process issued by a court calling upon a person to appear before a Magistrate. It is used for the purpose of notifying an individual of his legal obligation to appear before the Magistrate as a response to violation of law. In other words, the summons will announce to the person to whom it is directed that a legal proceeding has been started against that person and the date and time on which the person must appear in court. A person who is summoned is legally bound to appear before the court on the given date and time. Wilful disobedience is liable to be punished under Section 174 IPC. It is a ground for contempt of court. XXXXXXXX

17. It is inherent in Section 251 of the Code that when an accused appears before the trial court pursuant to summons issued under Section 204 of the Code in a summons trial case, it is the bounden duty of the trial court to carefully go through the allegations made in the charge-sheet or complaint and consider the evidence to come to a conclusion whether or not, commission of any offence is disclosed and if the answer is in the affirmative, the Magistrate shall explain the substance of the accusation to the accused and ask him whether he pleads guilty otherwise, he is bound to discharge the accused as per Section 239 of the Code.

8. In view of the aforesaid judgment, the present petition and the application are disposed of without commenting upon the merits of the case and with liberty to the petitioners to urge the pleas take herein before the trial court. CrI.M.A. 19344/2013 The application is dismissed as infructuous. V.P.VAISH, J NOVEMBER27 2014/gm

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