

Ravindra Singh Son of Durga Singh Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Apr-19-2006

Reported in : 2006CriLJ3325; II(2006)DMC20

Judge : Vinod Prasad, J.

Acts : Code of Criminal Procedure (CrPC) - 154, 156(1) and 156(3); Indian Penal Code (IPC) - Sections 323, 406, 498A, 504 and 506

Appeal No. : Criminal Misc. Application No. 4063 of 2006

Appellant : Ravindra Singh Son of Durga Singh

Respondent : State of U.P. and ors.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : K.K. Tripathi, Adv.

Judgement :

Vinod Prasad, J.

1. An application under Section 156(3) Cr.P.C. was filed by the present applicant Ravindra Singh against the respondents accused Manoj Singh son of Raja Singh in the court of A.C.M.M.II, Kanpur Nagar being miscellaneous application No. 61/2006. The offences alleged in the aforesaid application were under Sections

498A, 323, 504, 506 and 406 I.P.C. The said application has been rejected by the Magistrate and this application to quash the said order of rejection dated 15.2.06.

2. The encapsulated facts were that the daughter of the applicants, namely, Garima was married with the accused Manoj Singh son of Raja Singh on 8.6.05. After the said marriage, the accused namely Manoj Singh, Raja Singh, Neha and Chandan Singh started demanding Rs. 75,000/- more as dowry. As the applicant was unable to satisfy the said dowry demand, his daughter, namely, Garima was subjected to torture and cruelty at the hands of the accused persons. Many endeavour by the applicant were made but all of them failed and the torture continued. On 16.1.06 at 4.00 P.M. the aforesaid named accused persons assaulted Garima severely with dandas. On hue and cry been raised by Garima the neighbors intervened into the matter and saved her from being beaten. Garima left her Sashural and came to her parental house and narrated the whole incident to the applicant. The ornaments, cloths and Rs. 50,000/- all of which belonged to Garima were illegally snatched away by the accused persons. On the said factual matrix the applicant laid an application under Section 156(3) Cr.P.C. as mentioned aforesaid, before the Metropolitan Magistrate. Along with the said application the applicant appended his affidavit with the identical contents. The affidavit of the daughter Smt. Garima Singh as well as affidavit of Amar Singh Sengar was also appended along with the said application under Section 156(3) Cr.P.C. The applicant also attached the injury report of Smt. Garima, which indicated that she had received four injuries on her person and was assaulted by respondents. The A.C.M.M.-II, Kanpur Nagar vide impugned order dated 15.2.06 rejected the application under Section 156(3) Cr.P.C. on the ground that the applicant is in the knowledge of all the facts and therefore, he can filed a complaint. The said order dated 15.2.06 is under challenge in the present criminal miscellaneous application.

3. Heard Sri K.K. Tripathi, learned Counsel for the applicant and the learned A.G.A. at a great length and I have perused the record.

4. It is contended by learned Counsel for the applicant that the impugned order-dated 15.2.06 is absolutely illegal and de horse the law and Section 156(3) Cr.P.C.. The learned Magistrate by passing the impugned order has committed a

miscarriage of justice. Learned A.G.A. on the other hand contended that the Magistrate in his wisdom thought it proper to direct the applicant to file a complaint and therefore, impugned order should be sustained.

5. Cogitating over the matter, there is much force in the contention of the learned Counsel for the applicant Section 154 read with Section 156(3) falls under Chapter XII of the Code of Criminal Procedure, which is titled as 'INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE', Under Section 154 Cr.P.C. it is provided that the police officer will register, as an F.I.R., all informations of offences, which are cognizable in nature. There is no scope for any police officer to refuse registration of any information as an FIR which discloses a cognizable offence. The phraseology of the Section 156(1) Cr.P.C. clearly indicates that the police officer can investigate the F.I.R. of cognizable offence without an order passed by the Magistrate concerned. This fact indicates the intention of the legislation in respect of cognizable offence, Sub-section (3) thereof provides that if any cognizable offence has been committed and the police has refused to register the F.I.R. then the Magistrate may direct the police to register the F.I.R. and order for investigation into such offences. By not following the mandate of law not only the Magistrate, in the present case, has committed miscarriage of justice but at the same time he has given a blow to the person who is seeking justice from him, for inaction on the part of the police, for his daughter who was tortured at the hands of the accused This is nothing but a glaring example of miscarriage of justice and flouting of the mandate of law.

6. In this view of the matter, the present application is allowed. The impugned order dated 15.2.06 passed by A.C.M.M.II, Kanpur Nagar in miscellaneous application No. 61/2006 is quashed A.C.M.M.II, Kanpur Nagar is directed to reconsider the application filed by the present applicant under Section 156(3) Cr.P.C. being application No. 61 of 2006 and decide it in accordance with law.