

Archana Aggarwal Vs. State

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Court : Delhi

Decided On : May-24-1993

Reported in : II(1993)DMC23

Judge : Sat Pal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 161 and 482

Appeal No. : Crl. M(M) No. 1807 of 1990

Appellant : Archana Aggarwal

Respondent : State

Advocate for Def. : B.M. Sabharwal, Adv.

Advocate for Pet/Ap. : K.B. Andelay, Adv

Disposition : Petition allowed

Judgement :

Sat Pal, J.

1. This is a petition under Section 482 of the Criminal Procedure Code (for short called 'the Code') for quashing of proceedings pending against the petitioner, who is the unmarried sister of the husband of the complainant in respect of FIR No. 44/90, registered at Police Station Keshav Puram against the petitioner. In addition

to the petitioner, the proceedings are also pending against the mother-in-law, father-in law and brother-in-law of the complainant.

2. Mr. Andley, learned Counsel appearing on behalf of the petitioner, has submitted that a reading of the FIR and the allegations contained in the complaint filed by the complainant, even if are taken at their face value and accepted in their entirety, no offence is made out, prima facie, against the petitioner. In this connection he drew my attention to English translation of the complaint filed by the complainant Smt. Raj Rani on 27th November, 1990 before the in charge, Crime Against Women Cell which ultimately became the FIR in the present case. In this complaint it has been alleged that the complainant was told by her husband, father-in-law, mother-in-law, sisters-in law and their husbands that they had asked the father of the complainant to give VCR and Maruti car but he had not given. This allegation has got no relevancy whatsoever against the petitioner who is admittedly an unmarried girl. Learned Counsel also drew my attention to the statement of the complainant recorded before CAW Cell on 24th January, 1990 and in this statement there is not an iota of allegation against the petitioner. Learned Counsel, therefore, submitted that it is a fit case where this Court should exercise power under Section 482 of the Code to quash the proceedings against the petitioner.

3. Mr. Sabharwal, learned Counsel appearing on behalf of the State, has submitted that there is a statement of the complainant recorded by the police under Section 161 of the Code on 21st February, 1990 wherein she has made allegations against the petitioner also. He, therefore, submitted that during the course of trial the allegations against the petitioner will also be proved by the prosecution.

4. I have heard the learned Counsel for the parties and have also perused the initial complaint filed by the complainant on 27th November, 1989 and her statement dated 24th January, 1990 made before CAW Cell. After giving my careful consideration to these statements I am of the view that the alleged statement recorded on 21st February, 1990 is purely an afterthought and appears to have been given with an ulterior motive to involve a young unmarried girl

against whom no allegations were made by the complainant either in her original complaint dated 27th November, 1989 or in her statement dated 24th January, 1990 made before the CAW Cell. On this question the law is well settled and in this connection I may refer to Supreme Court judgment in the case of State of Haryana and Ors. v. Ch. Bhajan Lal and Ors., : 1992 CriLJ527 . In this judgment one of the guidelines which can be the basis to quash such proceedings under Section 482 of the Code reads as follows :--

"Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

The present case is squarely covered in terms of the above guideline.

5. In view of the above discussion the petition is allowed and I hereby quash the proceedings against the petitioner alone pursuant to case FIR No. 44/90, registered at Police Station Keshav Puram, pending in the Court of Ms. R. Kiran Nath, Metropolitan Magistrate, Delhi. With this order the petition stands disposed of.

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