2025 INSC 560

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2551 OF 2024

PRAMILA DEVI & ORS. …APPELLANTS
A1: PRAMILA DEVI
A2: SATYANARAIN SAHU
A3: KRISHNA KUMAR

VERSUS

THE STATE OF JHARKHAND & ANR. …RESPONDENTS
R1: THE STATE OF JHARKHAND
R2: JYOTI BECK

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

The present appeal has been preferred by the Appellants against the Final Judgment and Order dated 09.03.2022 (hereinafter referred to as the 'Impugned Judgment') [**2022:JHHC:9512**] in Criminal Miscellaneous Petition No.235 of 2017 passed by the High Court of Jharkhand at Ranchi (hereinafter referred to as the 'High Court') by which the High Court set aside the cognizance Order dated 13.06.2019

passed in connection with SC/ST Case No.08 of 2017 arising out of Argora P.S. Case No.385 of 2016, by the learned Additional Judicial Commissioner-XII, Ranchi (hereinafter referred to as the 'Additional Judicial Commissioner') and remitted the matter for passing order afresh.

BRIEF FACTUAL BACKGROUND:

2. Respondent No.2 (Informant) claims to be the second wife of one Vishnu Sahu (Deceased). Appellant No.1 is the first wife of Late Vishnu Sahu, and Appellants No.2 and 3 are their children. It was alleged that the deceased posing himself as unmarried about 25-30 years ago befriended Respondent No.2 and married her in 1990 at Jagannath Temple under Hindu customs and traditions and lived peacefully for more than 26 years. From their marriage (Vishnu Sahu and Respondent No.2), three children were born, namely Reshma Kumari, Rupa Kumari, and Vishal Kumar. It was pleaded that after 26 years, Respondent No.2 filed a written complaint against Vishnu Sahu and the Appellants which culminated into First Information Report No.385/2016 dated 27.11.2016 (hereinafter referred to as the 'FIR') under Sections 498A, 406 and 420 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') and

Section 3(1)(iv) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act').

3. The allegations made in the FIR are that Vishnu Sahu posing himself to be unmarried, performed marriage with Respondent No.2 in 1990, and two daughters and a son were born to them from the said wedlock. By taking a loan in her name from a bank and at her expense, a *pakka* house was constructed upon the land purchased by her father in her name, and she was living in the said house with her family. She also alleged that Vishnu Sahu along with the first wife and the children, born from wedlock of Vishnu Sahu and his first wife (Appellant No.1) started to harass and assault her and ultimately, in the year 2013, she and her children were ousted by them from the said house. It is further alleged that she has been deprived of her land and house, that she is facing hardship, her daughters are of marriageable age and that she was humiliated and abused by Vishnu Sahu, his first wife (Appellant No.1) and their children in the name of *Adivasi Kol. Bhurung,* etc.

4. Vishnu Sahu and the Appellants moved Anticipatory Bail Petition No.1799 of 2016 before the learned Additional Judicial Commissioner-1 at Ranchi, who on 19.12.2016 passed an Order directing that no

coercive steps shall be taken against them and adjourned the matter with direction to put up on 20.01.2017. On 20.01.2017, an Order was passed rejecting the application for anticipatory bail as the allegation illustrates commission of offence(s) under the SC/ST Act.

5. The Additional Judicial Commissioner took cognizance against Vishnu Sahu and Appellants on 13.06.2019 in SC/ST Case No.08/2017. Though before the High Court, the Appellants had initially sought quashing of the FIR, in Criminal Miscellaneous Petition No.235/2017 the prayer was later amended by filing an Interlocutory Application challenging the Order taking cognizance dated 13.06.2019. The High Court in the Impugned Judgment, instead of going into the question of whether the FIR itself was fit to be quashed, focused only on the cognizance-taking Order dated 13.06.2019. Even before this Court, the Appellants challenged the Impugned Judgment to the extent the matter was remanded to pass order afresh after disclosure of the *prima facie* material against the Appellants. No prayer was pressed to quash FIR No.385/2016. In such view, we would proceed only with regard to the challenge whether the High Court by the Impugned Judgment ought to have remanded the matter to the Trial Court for disclosure of the *prima facie* material against the Appellants.

6. The High Court, by way of the Impugned Judgment, set aside the cognizance Order and remitted the matter to the Additional Judicial Commissioner to pass order afresh as in the cognizance Order, *prima facie* material against the Appellants had not been disclosed.

SUBMISSIONS BY APPELLANTS:

7. Learned counsel for the Appellants submits that Respondent No.2 is habituated to lodging false cases, as earlier also she had lodged Case No.311/2014 against the Appellants under Sections 341, 323, 506 and 498A of the IPC, presently pending adjudication, wherein the Appellants have been granted bail on 30.09.2014.

8. Learned counsel contended that in the present FIR dated 27.11.2016, the allegations are totally baseless, since they have come nearly 26 years after the alleged marriage. It was further submitted that Respondent No.2's entire case is based on the allegation that the land on which the house is built had been purchased by her father in Village Argora bearing Khata No.199, Plot No.1734, which makes it an entirely civil dispute that has been masked as a criminal case under the provisions of the IPC and the SC/ST Act.

9. Learned counsel for the Appellants summed up his arguments submitting that despite Civil Suit No.1465/2014 having been filed by Vishnu Sahu with regard to purchase of land in Village Argora bearing Khata No.199, Plot No.1734, these criminal cases (present FIR and Case No.311/2014) are foisted by Respondent No.2 to harass the Appellants. It was urged that the High Court ought to have quashed the entire criminal proceedings on the grounds that there was no *prima facie* case, in the absence of any evidence being placed before the Trial Court, but instead, the Appellants are being forced to revisit proceedings that would lead to further harassment. It was prayed that the appeal be allowed and the decision to remit the matter to the Additional Judicial Commissioner for a fresh decision be set aside.

SUBMISSIONS BY RESPONDENT NO.1-STATE:

10. Learned counsel for the Respondent No.1-State prayed for dismissal of the appeal as *prima facie*, a case was made out under the IPC and the SC/ST Act against the Appellants and the High Court has remitted the case back to the Additional Judicial Commissioner, only for the limited purpose of disclosing the *prima facie* material. It was urged that the Impugned Judgment did not require interference.

SUBMISSIONS BY RESPONDENT NO.2-INFORMANT:

11. Learned counsel for Respondent No.2 submitted that Vishnu Sahu constructed the house on the property belonging to her by taking loan in her name and in 2013, she was forcibly evicted from the house by Vishnu Sahu and the Appellants, and this act by the Appellants discloses the commission of offence(s) under the SC/ST Act.

12. Learned counsel contended that Chargesheet No.80/2019 dated 30.04.2019 had been filed against the Appellants under Sections 498A, 406 and 420 of the IPC and Section 3(1)(g) of the SC/ST Act. Subsequently, on 13.06.2019, the Additional Judicial Commissioner took cognizance of the above-mentioned offences. It was submitted that the statements of the prosecution witness(es), which are not on record before this Court, clearly establish the commission of offence(s) by the Appellants. It was advanced that the appeal deserved dismissal.

ANALYSIS, REASONING AND CONCLUSION:

13. We have considered the matter in its entirety. Two basic issues arise for consideration.

14. *Firstly*, whether the Additional Judicial Commissioner while taking cognizance has to record detailed reasons for taking cognizance? *Secondly*, whether the FIR itself was instituted with *mala fide* intention and was liable to be quashed?

15. Coming to the first issue, we have no hesitation to record that the approach of the High Court was totally erroneous. Perusal of the Order taking cognizance dated 13.06.2019 discloses that the Additional Judicial Commissioner has stated that the '*case diary and case record*' have been perused, which disclosed a *prima facie* case made out under Sections 498(A), 406 and 420 of the IPC and Section 3 (1)(g) of the SC/ST Act against the accused including appellants. Further, we find the approach of the Additional Judicial Commissioner correct inasmuch as while taking cognizance, it firstly applied its mind to the materials before it to form an opinion as to whether any offence has been committed and thereafter went into the aspect of identifying the persons who appeared to have committed the offence. Accordingly, the process moves to the next stage; of issuance of summons or warrant, as the case may be, against such persons.

16. In the present case, we find that the Additional Judicial Commissioner has taken cognizance while recording a finding that - from a perusal of the case diary and case record, a *prima facie* case was made out against the accused, including the Appellants. In ***Bhushan Kumar v State (NCT of Delhi)*****, (2012) 5 SCC 424**, this Court held that an order of the Magistrate taking cognizance cannot be faulted only because it was not a reasoned order; relevant paragraphs being as under:

> '***14.*** *Time and again it has been stated by this Court that the summoning order under Section 204 of the Code requires no explicit reasons to be stated because it is imperative that the Magistrate must have taken notice of the accusations and applied his mind to the allegations made in the police report and the materials filed therewith.*
> ***15.*** *In Kanti Bhadra Shah v. State of W.B. [(2000) 1 SCC 722: 2000 SCC (Cri) 303] the following passage will be apposite in this context: (SCC p. 726, para 12)*
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> > *"12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. If a Magistrate is to write detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down. We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been*

passed for culminating the proceedings before them. But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial."

(emphasis supplied)

16. *In Nagawwa v. Veeranna Shivalingappa Konjalgi [(1976) 3 SCC 736: 1976 SCC (Cri) 507] this Court held that it is not the province of the Magistrate to enter into a detailed discussion on the merits or demerits of the case. It was further held that in deciding whether a process should be issued, the Magistrate can take into consideration improbabilities appearing on the face of the complaint or in the evidence led by the complainant in support of the allegations. The Magistrate has been given an undoubted discretion in the matter and the discretion has to be judicially exercised by him. It was further held that: (SCC p. 741, para 5)*

"5. … Once the Magistrate has exercised his discretion it is not for the High Court, or even this Court, to substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused."

17. *In Chief Controller of Imports & Exports v. Roshanlal Agarwal [(2003) 4 SCC 139: 2003 SCC (Cri) 788] this Court, in para 9, held as under: (SCC pp. 145-46)*

"9. In determining the question whether any process is to be issued or not, what the Magistrate has to be satisfied is whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons. This question was considered recently in U.P. Pollution Control Board v. Mohan Meakins Ltd. [(2000) 3 SCC 745] and after noticing the law laid down in Kanti

Bhadra Shah v. State of W.B. [(2000) 1 SCC 722: 2000 SCC (Cri) 303] it was held as follows: (U.P. Pollution case [(2000) 3 SCC 745], SCC p. 749, para 6)

> *'6. The legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons. The process issued to the accused cannot be quashed merely on the ground that the Magistrate had not passed a speaking order.'"*

18. *In U.P. Pollution Control Board v. Bhupendra Kumar Modi [(2009) 2 SCC 147: (2009) 1 SCC (Cri) 679] this Court, in para 23, held as under: (SCC p. 154)*

> *"23. It is a settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused."*

19. *This being the settled legal position, the order passed by the Magistrate could not be faulted with only on the ground that the summoning order was not a reasoned order.*'

(emphasis supplied)

17. The view in ***Bhushan Kumar*** (*supra*) was reiterated in ***Mehmood Ul Rehman v Khazir Mohammad Tunda*****, (2015) 12 SCC 420** and ***State of Gujarat v Afroz Mohammed Hasanfatta*****, (2019) 20 SCC 539**. This Court in ***Rakhi Mishra v State of Bihar*****, (2017) 16 SCC 772**

restated the settled proposition of law enunciated in ***Sonu Gupta v Deepak Gupta*, (2015) 3 SCC 424**, as under:

> '***4.*** *We have heard the learned counsel appearing for the parties. We are of the considered opinion that the High Court erred in allowing the application filed by Respondents 2, 4, 5, 6, 7, 8, 9 and 10 and quashing the criminal proceedings against them. A perusal of the FIR would clearly show that the appellant alleged cruelty against Respondents 2, 4, 5, 6, 7, 8, 9 and 10. This Court in Sonu Gupta v. Deepak Gupta [Sonu Gupta v. Deepak Gupta, (2015) 3 SCC 424: (2015) 2 SCC (Cri) 265] held as follows: (SCC p. 429, para 8)*
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> > *"8. … At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence … to find out whether a prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials would lead to conviction or not."*
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> ***5.*** *The order passed by the trial court taking cognizance against R-2 and R-4 to R-9 is in conformity with the law laid down in the above judgment. It is settled law that the power under Section 482 CrPC is exercised by the High Court only in exceptional circumstances only when a prima facie case is not made out against the accused. The test applied by this Court for interference at the initial stage of a prosecution is whether the uncontroverted allegations prima facie establish a case.*'
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> (emphasis supplied)

18. Coming to the second point which the Appellants canvassed before this Court *viz*. the background of lodging of the FIR to impress that the same is *mala fide*, an afterthought and at best, a civil dispute being tried to be settled through criminal proceedings by way of arm-twisting. On this point, need for a detailed discussion is obviated in view of our answer on the first point *supra* and the paragraphs *infra*.

19. Perusal of the entire gamut of the pleadings of the Appellants does not disclose any categorical statement to the effect that during investigation by the police, no evidence has emerged to warrant taking of cognizance, much less against the Appellants. The only averment which has been made is that the Trial Court had not recorded the *prima facie* material against the Appellants because it does not exist. This is too simplistic an argument and does not shift the burden from the Appellants of taking a categorical stand that no material whatsoever for taking cognizance is available in the police papers/case diary against the Appellants. Be it noted, the State has argued that sufficient material warranting cognizance has been unearthed during the course of investigation.

20. Here, the Court would pause to delve on what is the scope of the exercise of application of mind on the police papers/case diary for deciding as to whether to take cognizance or not - it has only to be seen whether there is material forthcoming to indicate commission of the offence(s) alleged. The concerned Court is not empowered to go into the veracity of the material at that time. That is why, the law provides for a trial where it is open to both the parties i.e., the prosecution as well as the defence to lead evidence(s) either to prove the materials which have come against the accused or to disprove such findings. This Court *vide* Order dated 13.09.2024 directed the Appellants to file a translated copy of the chargesheet, as the State filed the chargesheet in Hindi along with an application seeking exemption from filing official translation (I.A. No.198073/2024). As this Court [Coram: Sudhanshu Dhulia and Ahsanuddin Amanullah, JJ.] is well-conversant with Hindi, the language in which the chargesheet is and which has been brought on record, we have examined the same. However, the Appellants failed to comply with the specific direction issued on 13.09.2024. Be that as it may, we find that chargesheet mentions that on the basis of investigation, site inspection and statements of the complainant, the police has found the allegations true against all the accused including appellants.

21. For reasons aforesaid and on an overall circumspection of the facts and circumstances of the case and submissions of learned counsel for the parties, we find that the Order taking cognizance dated 13.06.2019, being in accordance with law, was not required to be interfered with by the High Court.

22. Though no cross-appeal against the Impugned Judgment has been filed by Respondent No.2, yet to render complete justice as also set right the error committed by the High Court, on the legal issue of requirement of recording detailed grounds/reasons for taking cognizance, the Impugned Judgment is set aside *in toto*.

23. The appeal stands disposed of in the aforesaid terms. The Appellants shall appear before the Additional Judicial Commissioner, where the matter is pending, on the next date fixed in the case, whereupon the case shall proceed in accordance with law. Registry to communicate this Judgment to the Judicial Commissioner, Ranchi forthwith through the Registrar General, Jharkhand High Court.

24. We would add that the Appellants shall have full liberty of putting forth their case before the Court concerned at the appropriate stage *viz*.

framing of charge(s) and can press for discharge, *inter alia*, by pointing out that the investigation has not come up with any material to warrant trial. We further clarify that we have not expressed any opinion on the merits of the matter. Our observations are only for the purpose of deciding the instant appeal. All contentions in law and fact are reserved to the prosecution and the defence.

25. No order as to costs.

…….....J.
[SUDHANSHU DHULIA]

…….....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI
APRIL 23, 2025