

SUPREME COURT OF INDIA

Dharam Deo Sharma

Vs.

State of U.P.

CrI.A.No.1111 of 2003

(R.V. Raveendran and P. Sathasivam JJ.)

26.06.2008

ORDER

When the appellant was serving as Superintending Engineer in U.P.

1. Electricity Board, one Vimla Devi filed a complaint on 2.2.1998, alleging that she had been engaged by the appellant as a maid servant a few days earlier, that on 1.2.1998, the appellant gave her some tablet which made her unconscious and when she regained consciousness she found that she had no clothes and that she was raped when she was unconscious. The police investigated and filed a report stating that no offence, as alleged, has been made out. The said Vimla Devi filed a protest petition.

“After hearing the protest petition, learned Chief Judicial Magistrate, Saharanpur made an order on 31.8.1998 summoning the petitioner to face the charges. The appellant made an application for recalling the said order. The same was rejected by order dated 11.7.2000. The appellant filed a petition under Section 482 Cr.P.C. before the Allahabad High Court challenging the orders dated 31.8.1998 and 11.7.2000. The High Court dismissed the petition by order dated 21.8.2000 holding that the petition was premature and the appellant could raise all contentions at the appropriate stage. The said order is challenged in this appeal filed by special leave.”

2. Learned counsel for the appellant submitted that a false case has been set up against the appellant on account of the strict action taken by him against defaulting electricity consumers. He also submitted that the police had found that he had not committed the offence and his contentions were not considered by the learned Magistrate while ordering summons.

3. We find that the High Court found that it could not interfere with the summoning order, in view of the specific averment in the complaint. We also find that the High Court has safeguarded the interest of the appellant with the following observation:-

“However, considering the fact that the applicant has been summoned on the basis of the protest petition and he being Chief Engineer in the Electricity Department, is not likely to abscond, it is provided that in case the applicant surrenders and apply for bail in the aforesaid case, then his application shall be considered and disposed of by the courts below expeditiously in accordance with law preferable on the day.”

We are told that subsequently the appellant has retired from service as Chief Engineer of the Electricity Board.

4. In the circumstance, we find no ground to interfere with the order.

Therefore, we dispose of this appeal reiterating the observation that if the appellant surrenders and applies for bail, his application shall be considered and disposed of by the learned Magistrate on the same day having regard to the peculiar facts of the case.