

SUPREME COURT OF INDIA

Rajeev Kourav

Vs.

Baisahab

CrI.A.No.232 of 2020

(L.Nageswara Rao and Hemant Gupta,JJ.,)

11.02.2020

JUDGMENT

SLP(CrI.) No.1174 of 2017

L. Nageswara Rao,J.,

1. The above Appeal is filed against the judgment of the High Court of Madhya Pradesh, Principal Seat at Jabalpur by which a criminal proceeding against Respondent Nos.1 and 3 was quashed in exercise of its power under Section 482 of the Code of Criminal Procedure (for short “the CrPC).

2. The Appellant filed a complaint before the Police Station Kareli, District Narsinghpur on which FIR No.285 of 2014 was registered on 08.05.2014. According to the complaint, it was urged that Respondent Nos.1 to 3 subjected Nilu, the wife of the Appellant to harassment due to which she committed suicide along with her two children. The first Respondent is the wife of elder brother of the Appellant. The second and third Respondents are the brothers of the first Respondent. The brother of the Appellant and Respondent No.1 were living separately. Respondent No.1 was not satisfied with the land which was given by the Appellant's father to her husband. Respondent No.1 along with her brothers, Respondent Nos.2 and 3, started harassing the family of the Appellant especially Nilu. According to the FIR, Respondent Nos.1 to 3 used to quarrel with the deceased Nilu. On 05.05.2014, Respondent No.1 filed a false complaint against the Appellant and his parents. She also intimidated Mahendra Singh Kourav, maternal uncle of the Appellant by threatening him that she would pour kerosene oil and set herself on fire along with her children and implicate the entire family of the Appellant in a criminal case. Mahendra Singh Kourav made a complaint about the said incident of intimidation to the Police Station on 07.05.2014. The Appellant, his family members and Respondent Nos.1 to 3 were called to the Police Station and the matter was settled for the time being. Thereafter, Respondent Nos.1 to 3 went to the village Jhumri and assaulted the deceased Nilu. Unable to bear the torture, Nilu along with her children Harisharan aged 1% years and Ramsharan aged 1% years committed suicide by jumping in front of a moving train.

3. A final report was filed on 19.07.2014 on completion of investigation. A petition under Section 482 of the CrPC was filed for quashing the criminal proceedings. It was contended on behalf of Respondent Nos.1 to 3 before the High Court that the ingredients of Section 306 IPC have not been made out and the proceedings are liable to be quashed. According to Respondent Nos.1 to 3, the FIR and the charge sheet would only disclose that the entire family of the Appellant was being harassed. The Respondents cannot be held guilty of offence under Section 306 as there is nothing on record to show that they have incited the deceased to take the extreme step of committing suicide.

4. The High Court summoned the record of investigation and perused the statements recorded by the Appellant and his family members under Section 161 CrPC. The High Court held that statements recorded under Section 161 CrPC. would show that Respondent No.1 is a quarrelsome lady who has threatened the Appellant's family of false implication in a criminal case. The High Court observed that none of the persons whose statements under Section 161 CrPC were recorded have mentioned about the complaint of the deceased and that she was thinking of committing suicide due to the harassment of Respondent Nos.1 to 3. The High Court recorded a finding that Ramsharan Kourav, the uncle of the deceased, has stated in his statement under Section 161 that the deceased informed him that she is unable to bear the torture of Respondent Nos.1 to 3 and was thinking of putting an end to her life.

5. The High Court observed that the allegations made against Respondent Nos.1 to 3 at the most constitute an offence under Section 506 IPC for criminal intimidation. Read as a whole, the allegations made against Respondent Nos.1 to 3 did not make out an offence under Section 306/34 IPC. The High Court further held that ingredients of Section 107 IPC are also not satisfied. In that view, the petition filed by Respondent Nos.1-3 for quashing the criminal proceeding was allowed.

6. It is no more *res integra* that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a *prima facie* case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.

7. Mr. Shoeb Alam, learned counsel appearing for Respondent Nos.1 to 3 relied upon several judgments of this Court to submit that allegations only disclose a case of harassment meted out to the deceased. The ingredients of Section 306 and 107 IPC have not been made out. It is submitted that there is nothing on record to show that the Respondents have abetted the commission of suicide by the deceased. He further argued

that abetment as defined under Section 107 IPC is instigation which is missing in the complaint made by the Appellant. He further argued that if the allegations against Respondent Nos.1 to 3 are not prima facie made out, there is no reason why they should face a criminal trial.

8. We do not agree with the submissions made on behalf of Respondent Nos.1 to 3. The conclusion of the High Court to quash the criminal proceedings is on the basis of its assessment of the statements recorded under Section 161 CrPC. Statements of witnesses recorded under Section 161 CrPC being wholly inadmissible in evidence cannot be taken into consideration by the Court, while adjudicating a petition filed under Section 482 CrPC .

9. Moreover, the High Court was aware that one of the witnesses mentioned that the deceased informed him about the harassment meted out by Respondent Nos.1 to 3 which she was not able to bear and hence wanted to commit suicide. The High Court committed an error in quashing criminal proceedings by assessing the statements under Section 161 Cr. P.C.

10. We have not expressed any opinion on the merits of the matter. The High Court ought not to have quashed the proceedings at this stage, scuttling a full-fledged trial in which Respondent Nos.1 to 3 would have a fair opportunity to prove their innocence.

11. For the aforementioned reasons, the judgment of the High Court is set aside and the Appeal is allowed.