

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1542 OF 2018

(Arising out of S.L.P.(Crl.) No. 9365 of 2018)

Dr. Jagdish Prasad & Ors.Appellant(s)

VERSUS

State of Uttar Pradesh & Anr.Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.
2. This appeal is filed against the final judgment and order dated 13.09.2018 passed by the High Court of Judicature at Allahabad in an Application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”) bearing No.35595 of 2017 whereby the

Single Judge dismissed the application filed by the appellants herein.

3. Few facts need mention hereinbelow to appreciate the short controversy involved in this appeal.

4. By impugned order, the learned Single Judge dismissed the appellants' application filed under Section 482 of the Code wherein the challenge was to quash the order dated 21/09/2017 as well as entire proceedings in Complaint Case No.2540 of 2017 (**Mamta vs. Jagdish Prasad & Ors.**) under Sections 498-A and 323 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Sections 3 and 4 of Dowry Prohibition Act, 1961 Police Station Mahila Thana, District Hathras pending in the Court of Chief Judicial Magistrate, Hathras, U.P.

5. The short question, which arises for consideration in this appeal, is whether the High Court was justified in dismissing the appellants' applications filed under Section 482 of the Code.

6. Heard Mr. Rakesh Taneja, learned counsel for the appellants and Mr. Chandra Shekhar, learned counsel for the respondents.

7. Having heard the learned counsel for the parties and on perusal of the record of the case we are inclined to set aside the impugned order and remand the case to the High Court for deciding the appellants' application, out of which this appeal arises, afresh on merits in accordance with law.

8. On perusal of the impugned order, we find that the Single Judge has quoted the principles of law laid down by this Court in several decisions relating to powers of the High Court on the issue of interference in cases filed under Section 482 of the

Code from Para 2 to the concluding para but has not referred to the facts of the case to appreciate the controversy of the case.

9. We are, therefore, unable to know the factual matrix of the case after reading the impugned judgment except the legal principles laid down by this Court in several decisions.

10. In our view, the Single Judge ought to have first set out the brief facts of the case with a view to understand the factual matrix and then examined the challenge made to the proceedings in the light of the principles of law laid down by this Court with a view to record the findings on the grounds urged by the appellants as to whether any interference therein is called for or not.

11. We find that the aforementioned exercise was not done by the High Court while passing the impugned order.

12. We, therefore, find ourselves unable to concur with such disposal of the application by the High Court and feel inclined to set aside the impugned order and remand the case to the High Court (Single Judge) with a request to decide the application afresh on merits in accordance with law keeping in view the aforementioned observations.

13. Having formed an opinion to remand the case in the light of our reasoning mentioned above, we do not consider it proper to go into the merits of the case.

14. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned

order is set aside. The case is remanded to the High Court for its decision on merits uninfluenced by any of our observations in this order.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[INDU MALHOTRA]

New Delhi;
December 03, 2018