

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 602 OF 2019

(Arising out of S.L.P.(Crl.) No.8074 of 2018)

Tabrez Khan @ Guddu & Ors.

....Appellant(s)

VERSUS

The 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 06.02.2018 passed by the High Court of Judicature at Allahabad in Application No.3514 of 2018 whereby the High Court declined to quash Complaint Case No.3065 of 2016 as well

as the summoning order dated 10.03.2017 passed by the ACJM, Court No.8, Varanasi in the aforesaid case.

3. A few facts need mention for the disposal of this appeal, which involves a short point.

4. Respondent No.2 was married to one Mohammad Pervez in the year 2000. Appellant No.3 is the mother of Mohammad Pervez and mother-in-law of respondent No.2. Appellant Nos.1 and 2 are the brothers of Mohammad Pervez and brothers-in-law of respondent No. 2.

5. Respondent No.2 has filed a complaint case against the appellants and also against her husband-Mohammad Pervez in the Court of ACJM Court No.8, Varanasi complaining therein for the commission of the offences alleged to have been committed by the appellants *qua* respondent No.2 under Sections 498A, 323, 504, 506 of the Indian

Penal Code, 1860 (hereinafter referred to as “IPC”) read with Section 3/4 of the DP Act. This case is still pending.

6. On receipt of the summons of the said complaint, the appellants felt aggrieved and they filed an application under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.) in the High Court and sought quashing of complaint and the order issuing summons of the complaint to them.

7. By impugned order, the High Court declined to quash Complaint Case No.3065 of 2016 and also declined to quash the summoning order dated 10.03.2017 passed by the ACJM, Court No.8, Varanasi in the aforesaid case which has given rise to filing of this appeal by way of special leave in this Court by the appellants.

8. So, the short question, which arises for consideration in this appeal, is whether the High Court was justified in rejecting the application filed by the appellants under Section 482 of the Cr.P.C.

9. Heard Mr. Amit Pawan, learned counsel for the appellants and Mr. Vinod Diwakar, learned AAG for respondent No.1-State. None appeared for respondent No.2 despite service on her.

10. Having heard the learned counsel for the appellants and respondent No.1 and on perusal of the record of the case, we are inclined to allow this appeal, set aside the impugned order, allow the application filed by the appellants under Section 482 of the Cr.P.C. and quash the aforementioned complaint filed by respondent No.2 insofar as it relates to the appellants.

11. We have gone through the averments made in the complaint and on its perusal, we do not find any justification to proceed against the appellants.

12. In other words, in our view, there does not appear to be any justification or/and *prima facie* case to proceed against the appellants either jointly or severally for commission of the offences alleged against them in the complaint. Indeed, the facts stated against the appellants in the complaint do not constitute any case as alleged against any of them.

13. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. The impugned order is set aside. As a consequence, the complaint filed by respondent No.2 against the appellants is hereby quashed.

14. We, however, make it clear that the complaint *qua* Mohammad Pervez Khan-husband of

respondent No.2 will be decided on its merit by the concerned Magistrate in accordance with law uninfluenced by any observations made by this Court because we have not examined the case of respondent No.2 *qua* her husband, who is neither a party to these proceedings and nor he has filed any petition to challenge the complaint filed against him.

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

.....J.
[DINESH MAHESHWARI]

New Delhi;
April 05, 2019