2025 INSC 163

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.367 OF 2025
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO.5896 OF 2023)
[@ DIARY NO.13033 OF 2023]

MARIPPAN & ANR. **APPELLANTS**

VERSUS

STATE REPRESENTED BY THE INSPECTOR OF POLICE & ANR. **RESPONDENTS**

O R D E R

AHSANUDDIN AMANULLAH & K. V. VISWANATHAN, JJ.

Heard learned counsel for the parties.

2. Leave granted.

BACKGROUND:

3. The appellants have moved this Court against the Judgment[1] passed by a learned Single Judge of the High Court[2], whereby their prayer for quashing the Chargesheet in the criminal case[3] *qua* them has been rejected, by dismissal of their petition under Section 482[4] of the Code of Criminal Procedure, 1973[5].

4. As per the prosecution story, the complainant alleges that she was in a relationship with the son of the appellants and established physical relations with

[1] Final Judgment and Order dated 25.11.2022 in Criminal Original Petition (MD) No.15448/2022.
[2] The High Court of Judicature at Madras, Bench at Madurai.
[3] P.R.C. No.16/2022 before the Additional Mahila Court, Theni, arising from Crime No.13/2022, All Women Police Station, Theni.
[4] *'482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.'*
[5] Hereinafter referred to as the 'Code'.

the son, only on the assurance that he would marry her. On one occasion, the son of the appellants had taken her to meet them where they also agreed to accept her as their daughter in-law. But later, the son informed her that the appellants had fixed his marriage with someone else.

SUBMISSIONS:

5. Learned counsel for the appellants submitted that nowhere in the entire complaint there is any allegation that the parents had instigated or had misrepresented to the complainant that they would get her married to their son[6] and that was the basis for the complainant to have developed physical relation(s) with the appellants' son. Further, there is also no allegation that the appellants forced the son to marry another girl and that they had any knowledge of the intimate relationship of their son with the complainant.

6. Learned counsel for the complainant, *per contra*, submitted that the role of the appellants is crucial since they were the parents and only upon their assurance, the complainant had agreed to a physical relationship. It was stated that, suddenly, she was left in the lurch. It was contended that the son of the appellants had duped her and married another girl.

7. Learned senior counsel appearing for the State, in fairness, submitted that on the facts of the present case and the pleadings, it appears that the appellants cannot be held liable, much less, held criminally liable under Sections 417[7] and

[6] Accused No.1 in the Chargesheet.
[7] *'417. Punishment for cheating.—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.'*

109[8] of the Indian Penal Code, 1860[9].

ANALYSIS, REASONING AND CONCLUSION:

8. We may gainfully extract Section 415 of the IPC before traversing further:

> '*415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".*
> *Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.*
>
> *Illustrations*
>
> *(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.*
> *(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.*
> *(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample,*

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[8] *'109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.*

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in S. 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.'

[9] Hereinafter referred to as the 'IPC'.

and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery, A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.'

9. Having considered the matter, we find substance in the submissions of the learned counsel for the appellants. From the entire reading of the complaint itself, it is clear that the only reference by/reason of the complainant against the appellants was that they were the parents of the boy who was in a relationship with her, and on one occasion, she had also met the appellants with their son. In the complaint itself, it is stated that the son of the appellants did not want the appellants to stay there for some time, and immediately they were sent away. To our minds, this is also indicative of the fact that the appellants themselves were totally ignorant of

what, if anything, was happening between their son and the complainant. Even otherwise, from what is alleged in the complaint itself, we do not find that there is any act or conduct on the part of the appellants which can be termed to be illegal *per se*, much less criminal in nature. No ingredients of any offence under the IPC appear to be forthcoming. As such, we are unable to hold that any offence under the ambit of Section 415 of the IPC is made out against the instant appellants.

10. Further, the age of the complainant, when she made the complaint, was 29 years. The appellants' son, at that time, was aged 32 years. The complainant is stated to be a post-graduate, and after working in the appellants' textile showroom had, subsequently, set up her own cosmetics shop. *Arguendo*, the appellants' statement/conduct led the complainant to develop intimate relations with the son, looking to the complainant's age and educational qualification, we are not inclined to accept the same. In any event, from a bare perusal of the complaint, it is evincible that the main allegations are against the appellants' son. As noted in the Impugned Judgment, the son had filed a petition under Section 482 of the Code, which was later withdrawn. Grant of relief, therefore, to the appellants would not adversely impact the case against the appellants' son, inasmuch as the appellants' son can independently be proceeded against in P.R.C. No.16/2022.

11. In ***Vishnu Kumar Shukla v State of Uttar Pradesh*, (2023) 15 SCC 502**, the Court stated:

> '***22.*** *On a careful conspectus of the legal spectrum, juxtaposed with our view on the facts and merits expressed hereinbefore, we are satisfied that there is no suspicion, much less strong or grave suspicion that the appellants are guilty of the offence alleged. It would be unjus-*

tified to make the appellants face a full-fledged criminal trial in this backdrop. In an appeal dealing with the refusal of the High Court to quash an FIR under Section 482CrPC albeit, this Court, while setting aside the judgment [Pushpendra Mishra v. State of M.P., 2019 SCC OnLine MP 7164] impugned therein and quashing that FIR, took the view that: (Priyanka Mishra case [Priyanka Mishra v. State of M.P., (2023) 15 SCC 480] , SCC para 24)

> *'24. … the Appellants are to be protected against vexatious and unwarranted criminal prosecution, and from unnecessarily being put through the rigours of an eventual trial.' [Priyanka Mishra v. State of M.P., (2023) 15 SCC 480]*

The protection against vexatious and unwanted prosecution and from being unnecessarily dragged through a trial by melting a criminal proceeding into oblivion, either through quashing an FIR/complaint or by allowing an appeal against an order rejecting discharge or by any other legally permissible route, as the circumstances may be, in the deserving case, is a duty cast on the High Courts. The High Court should have intervened and discharged the appellants. But this Court will intervene, being the sentinel on the qui vive.'

(emphasis supplied)

12. In view of the aforesaid, we find that trial against the appellants would be an abuse of the process of the Court and the same needs to be nipped in the bud. For the reasons afore-stated, the appeal is allowed. The Impugned Judgment is set aside. Proceedings in P.R.C. No.16/2022 insofar as they relate to the appellants stand quashed. They are discharged from the liabilities of their bail bonds and sureties.

13. Our observations shall not, in any manner, prejudice the State or the complainant in proceedings against the appellants' son.

14. I.A.[10] Nos.73962/2023 [Exemption from filing Certified Copy of the Impugned Judgment] and 73963/2023 [Exemption from filing Official Translation(s)]

[10] Abbreviation for Interlocutory Application.

are formally allowed.

PARTING NOTE:

15. Having dealt with the matter on merits, we must deal now with a slightly disturbing aspect. The parties before the High Court were: (i) the appellants (original petitioners); (ii) the State, and; (iii) the complainant. This being the position, it was plainly unnecessary for the observation *infra* to be made by the High Court in the Impugned Judgment, towards which we express our disapproval:

> '***10.*** *… If this Petition is allowed, the Petitioners' son will spoil women of marriageable age in the same manner…*'

16. The High Court, we would have expected, should have been cognisant that the appellants' son was not before it. A somewhat similar situation had arisen in ***Anu Kumar v State (UT Administration)*****, 2021 SCC OnLine SC 3454**. The Court held:

> '***4.*** *The core issue before us is whether the High Court in exercise of powers under Section 482 of the Criminal Procedure Code in the petition for quashing filed by the accused named in the case can proceed to issue such direction and make observations against a third party (the appellant), who was not before the Court nor given any opportunity before passing of the impugned judgment much less without referring to any specific material forming part of the chargesheet which could indicate his complicity in the commission of the alleged crime.*
> ***5.*** *In our opinion, the answer is an emphatic NO. The High Court should not have ventured into an area which would adversely affect a third party to the proceedings and more so without referring to any credible material warranting such intervention of the High Court.*
> ***6.*** *It is a different matter if the High Court was to merely observe that if the Trial Court after recording of the evidence finds that some more persons were involved in the commission of the subject crime, must proceed against them by invoking Section 319 of the Criminal Procedure Code. Suffice it to observe that the impugned judgment issuing direction to proceed against the appellant in connection with*

stated crime and recording disparaging observations against him cannot be countenanced. The same stands effaced from the record.'

(emphasis supplied)

17. The High Court has said what it did, without any notice/opportunity to the appellants' son and without the benefit of having his say/version before it. In the circumstances, we propose to adopt a course of action similar to ***Anu Kumar*** (*supra*). Accordingly, the extract from Para 10 of the Impugned Judgment quoted *supra* shall stand deleted from the High Court's records. Our intervention on this score does not water down the *dicta* in Para 11 of this Order.

18. A copy of this Order be despatched to the Registrar (Judicial), Madurai Bench, Madras High Court.

…….....J.
(AHSANUDDIN AMANULLAH)

…….....J.
(K. V. VISWANATHAN)

NEW DELHI
24 JANUARY, 2025

ITEM NO.46 COURT NO.16 SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.367/2025
[@ PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO.5896/2023 @ DIARY NO.13033 OF 2023]

[Arising out of the Impugned Final Judgment and Order dated 25-11-2022 in CRL. O. P. (MD) No.15448/2022 passed by the Madurai Bench of the High Court of Judicature at Madras]

MARIPPAN & ANR. PETITIONERS

VERSUS

STATE REPRESENTED BY THE INSPECTOR OF POLICE & ANR. RESPONDENTS

(IA No.73962/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT & IA No.73963/2023 - EXEMPTION FROM FILING OFFICIAL TRANSLATION)

Date : 24-01-2025 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE K. V. VISWANATHAN

For the Petitioner(s) Mr. Avinash Wadhwani, Adv.
Mr. G. Balaji, AoR
Mr. Neeleshwar Pavani, Adv.

For the Respondent(s) Mr. Amit Anand Tiwari, Sr. A.A.G.
Mr. Sabarish Subramanian, AoR
Mr. Devyani Gupta, Adv.
Ms. Arjoo Rawat, Adv.
Mr. Vishnu Unnikrishnan, Adv.
Mr. Danish Saifi, Adv.

Mr. A. Renganath, Adv.
Mr. R. Ayyam Perumal, AoR

UPON hearing Counsel, the Court passed the following

O R D E R

The appeal is allowed in terms of the Signed Reportable Order.

2. The pending applications are allowed.

(Ram Subhag Singh) (Geeta Ahuja)
Assistant Registrar Assistant Registrar-*cum*-PS
(Signed Reportable Order is placed on the file.)