

**2023 LiveLaw (SC) 26**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

***M.R. SHAH; J., C.T. RAVIKUMAR; J.***

January 04, 2023

**CRIMINAL APPEAL NO. 25 OF 2023 (@ Special Leave Petition (Crl.) No.9899/2019)**

***X versus* THE STATE OF UTTAR PRADESH & ORS.**

**Code of Criminal Procedure, 1973; Section 482 - Appeal against High Court order that quashed criminal proceedings observing that that the complaint lodged against the husband demand of dowry is inherently improbable and that it falls in the category of a bogus prosecution - Allowed - Merely because the wife was suffering from the disease AIDS and/or divorce petition was pending, it cannot be said that the allegations of demand of dowry were highly/inherently improbable - Once the charge sheet was filed after the investigation having been found prima facie case, it cannot be said that the prosecution was bogus.**

(Arising out of impugned final judgment and order dated 09-05-2019 in A482 No. 14850/2017 passed by the High Court of Judicature at Allahabad)

*For Appellant(s) Mr. Avinash Sharma, AOR*

*For Respondent(s) Ms. Srishti Singh, AOR Mr. Abhishek Raj, Adv. Mr. Pratap Shanker, Adv. Mr. Gyanant Singh, Adv. Mr. Sarthak Shanker, Adv. Mr. Kunal Kohli, Adv. Mr. Swetank Shantanu, AOR*

**ORDER**

Leave granted.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 09-05-2019 passed by the High Court of High Court Of Judicature at Allahabad in Application under Section 482 No. 14850/2017 by which the High Court has allowed the said application preferred by the original accused/private respondents herein and has quashed the criminal proceedings for the offences under Section 498-A/506 of the Indian Penal Code, 1860 and Section 3/4 of the Dowry Prohibition Act, 1961, the original complainant has preferred the present appeal.

At the outset, it is required to be noted that at the time when the High Court passed the impugned order and quashed the criminal proceedings, after investigation, the charge sheet was already filed against the accused having found the prima facie case against the accused.

From the impugned judgment and order passed by the High Court, it appears that the High Court has quashed the criminal proceedings by observing that as the original complainant/wife was suffering from the disease AIDS and that a divorce petition was also stated to be pending between the parties, the allegations of demand of dowry are inherently improbable. Merely because the wife was suffering from the disease AIDS and/or divorce petition was pending, it cannot be said that the allegations of demand of dowry were highly/inherently improbable and the said proceedings can be said to be bogus proceedings. Therefore, the reasoning given by the High Court while quashing the criminal proceedings are not germane and the High Court while quashing the criminal proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) has seriously erred and exceeded in its jurisdiction under Section 482 Cr.P.C. Once the charge sheet was filed after the investigation having been found prima facie case, it cannot be said that the

prosecution was bogus. Under the circumstances, the impugned judgment and order passed by the High Court quashing the criminal proceedings is unsustainable.

In view of the above and for the reasons stated hereinabove and without further expressing anything on merits of the trial and the allegations, we set aside the impugned judgment and order passed by the High Court and the criminal proceedings against the respondents/original accused are hereby ordered to be restored. The impugned judgment and order passed by the High Court is set aside.

The present Appeal is allowed accordingly.

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