

2023 LiveLaw (SC) 642

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

B.R. GAVAI; J., PAMIDIGHANTAM SRI NARASIMHA; J., PRASHANT KUMAR MISHRA; J.

August 07, 2023

CRIMINAL APPEAL NO. OF 2023 [Arising out of SLP(Crl) No. 2924 of 2023]

MANIK B. versus KADAPALA SREYES REDDY & ANR.

Code of Criminal Procedure, 1973; Section 482 - At the stage of deciding an application under Section 482 Cr.P.C., it is not permissible for the High Court to go into the correctness or otherwise of the material placed by the prosecution in the chargesheet - The Court would exercise its power to quash the proceedings only if it finds that taking the case at its face value, no case is made out at all - The factors which the Court is required to take into consideration, while quashing the proceedings under Section 482 CrPC and while considering an application for discharge are totally different - Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial - Such an exercise, in our considered view, is not permissible while exercising the jurisdiction under Section 482 Cr.P.C. (Para 3-9)

(Arising out of impugned final judgment and order dated 02-01-2023 in CRLP No. 10860/2022 passed by the High Court of Karnataka at Bengaluru)

For Petitioner(s) Mr. Shekhar G Devasa, Adv. Mr. Manish Tiwari, Adv. Ms. Thasmitha Muthanna, Adv. M/S. Devasa & Co., AOR

For Respondent(s) Mr. R Basant, Sr. Adv. Mr. Dama Seshadri Naidu, Sr. Adv. Mr. Ramesh Allanki, Adv. Ms. Aruna Gupta, AOR Mr. Syed Ahmad Naqvi, Adv. Mr. V. N. Raghupathy, AOR Mr. Manendra Pal Gupta, Adv. Mr. Varun Varma, Adv.

ORDER

1. Leave granted.
2. Though, we have heard learned counsel for the parties at length, we have not gone into the merits of the arguments, inasmuch as any observation made by this Court with regard to the impugned order will adversely affect the rights of the parties at the stage of the trial.
3. The factors which the Court is required to take into consideration, while quashing the proceedings under Section 482 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C.") and while considering an application for discharge are totally different.
4. The least we can say is that the High Court in the impugned order, while exercising jurisdiction under Section 482 Cr.P.C., has almost conducted a mini trial and quashed the proceedings.
5. Learned Single Judge of the High Court has elaborately discussed the statements of the witnesses recorded under Section 161 of the Cr.P.C.
6. Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial.
7. Such an exercise, in our considered view, is not permissible while exercising the jurisdiction under Section 482 Cr.P.C.

8. The scope of interference, while quashing the proceedings under Section 482 Cr.P.C. and that too for a serious offence like Section 302 of Indian Penal Code is very limited. The Court would exercise its power to quash the proceedings only if it finds that taking the case at its face value, no case is made out at all.

9. At the stage of deciding an application under Section 482 Cr.P.C., it is not permissible for the High Court to go into the correctness or otherwise of the material placed by the prosecution in the chargesheet. The High Court by the impugned order has done exactly the same.

10. Therefore, without commenting upon the merits or demerits of the evidence, we quash and set aside the impugned order dated 02.01.2023 passed by the High Court.

11. The matter is remitted back to the learned trial Judge for trial of the Session Case No. 1379 of 2022 on its own merits and in accordance with law.

12. In the event respondent No.1, so desires, he would be at liberty to file an application for discharge, which will be considered on its own merits and in accordance with law.

13. The appeal is allowed in the above terms.

14. Pending applications, if any, stand disposed of.

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