

(2024) 11 SC CK 0004

Supreme Court Of India

Case No: Criminal Appeal No. 4130 Of 2024

Aruna Dhanyakumar Doshi

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision: Nov. 7, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 482
- Indian Penal Code, 1860 - Section 34, 116, 342, 347, 384, 504, 506
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007 - Section 23, 24

Hon'ble Judges: Abhay S. Oka, J; Augustine George Masih, J

Bench: Division Bench

Advocate: Ranjeet Kumar, Rajesh Kumar Chaurasia, Simanta Kumar, Sujeet Kumar, Jyoti Singh, Jaya Kiran, Devina Sehgal, Yatharth Kansal, Sidharth Luthra, Manoj C. Mishra, P. Venkat Reddy, Dharmesh Dk Jaiswal, Prashant Kumar Tyagi, P. Srinivas Reddy, Kushagra Raghuvanshi, Karanvir Gogia, Siddhant Gupta, Sandeep Sudhakar Deshmukh, Nishant Sharma

Final Decision: Dismissed

Judgement

Abhay S. Oka, J

FACTUAL ASPECT

1. The appellant is the complainant on whose complaint a First Information Report being Crime No.21 of 2021 (for short, "the impugned FIR")

was registered for the offences punishable under Sections 342, 347, 504, 506, 116 and 384 read with Section 34 of the Indian Penal Code (for short,

"the IPC") as well as under Sections 23 and 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, "the

2007 ActTM). 2nd to 5th respondents were shown as accused. The 2nd respondent is a son of the appellant. The 3rd respondent is the wife of the

2nd respondent. The 4th respondent is the daughter of 2nd and 3rd respondents. The 5th respondent is the father of the 3rd respondent.

2. One Dhanyakumar Doshi was the appellantTM's husband. The appellant has two sons (2nd respondent and Akshay) and two daughters -

Shubhangi and Sangita. The appellantTM's husband died on 24th February 2020. On 4th September 2017, the appellant and her husband executed a

registered Gift Deed by which they gifted an immovable property and a residential house to 4th respondent. On 16th October 2017, the appellant and

her husband executed a Deed of Rectification to correct the mistake that crept into the description of the property in the Gift Deed dated 4th

September 2017. Another Gift Deed was executed by the appellant and her husband on 7th November 2017, by which they gifted a flat/apartment in

Hyderabad to the 2nd and 4th respondents.

3. It is the case of the appellant that on 29th March 2019, her husband addressed a letter to the District Magistrate and District Commissioner of

Hyderabad Urban District alleging that the 2nd and 3rd respondents have been harassing and threatening him and the appellant and that they forced

them to execute gift deeds of their valuable properties. He alleged that the 2nd and 3rd respondents had threatened him not to disclose the execution of

gift deeds. He was afraid of revealing the said facts to anyone. He alleged that 2nd and 3rd respondents were ill-treating his younger son. Therefore,

the appellantTM's husband requested the District Magistrate to cancel the Gift Deeds. In the letter, the appellantTM's husband mentioned that his

confidant shall post the same only after his death. The appellant's case is that when her daughter Sangita visited Hyderabad, her husband handed her a

copy of the letter dated 29th March 2019.

4. On 7th November 2020 and on 12th November 2020, the appellantTM's daughter - Sangita, addressed letters to Adarshnagar Colony Police Station

at Hyderabad and Saidabad Police Station at Hyderabad, respectively, complaining about the fact that the 2nd and 3rd respondents were ill-treating

the appellant and that they had confined her to the house. The appellant signed a document dated 24th November 2020 (Annexure P-7) wherein she

declared that her life was in danger as she was apprehending some actions by the 2nd and 3rd respondents. Another complaint was filed by the

appellant on 7th December 2020 to the Commissioner of Police Saidabad, Telangana, making similar allegations. On 17th January 2021, the impugned

FIR was registered based on the complaint made by the appellant on 17th January 2021. Before the High Court of Telangana, the 2nd to 5th

respondents filed a petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the CrPC") for quashing the impugned FIR.

The learned Single Judge of the High Court, by the impugned order dated 1st June 2021, allowed the quashing petition in part and quashed the

proceedings insofar as the 4th and 5th respondents are concerned. This is the impugned judgment which has been challenged by way of present

appeal.

SUBMISSIONS

5. The learned counsel appearing for the appellant has taken us through different complaints made by the appellant and the letter dated 29th March

2019 addressed by the appellant's husband. He submitted that when the investigation of the impugned FIR was at a nascent stage, the High Court

ought not to have interfered at this stage. He submits that the impugned FIR cannot be treated as a compendium of the prosecution case. The power

of quashing should not have been exercised without allowing the police to investigate the offence. He pointed out that the appellant and her husband

were made to stay in the atmosphere of terror, as is evident from the letter dated 29th March 2019 addressed by the appellant's husband to the

District Magistrate. On the envelope of the said letter, the appellant's husband specifically stated that a copy of the letter shall be forwarded only

after his death. Relying upon a decision of this Court in the case of *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Ors.*

(2021) 19 SCC 401, the learned counsel submitted that criminal proceedings cannot be scuttled at the initial stage and quashing FIR at this stage

should be only by way of exception. Learned counsel also submitted that the finding of the High Court that there are no specific allegations against the

4th and 5th respondents is completely erroneous. He invited our attention to the correspondence made by the appellant's daughter and the

appellant with the police, wherein specific allegations were made against the 4th and 5th respondents.

6. The learned senior counsel appearing for the respondent nos. 2 to 4 submitted that the prosecution at the instance of the appellant was a complete abuse of the process of law, and the view taken by the High Court does not call for any interference.

CONSIDERATION OF SUBMISSIONS

7. At the outset, we must clarify that we are examining the challenge to the impugned judgment only to the limited extent of the order of quashing the impugned FIR as far as the 4th and 5th respondents are concerned. We are not examining the case made out by the appellant as against the 2nd and 3rd respondents.

8. The appellant and her husband executed the Gift Deeds on 4th September 2017 and 7th November 2017. In between, there was a Deed of Rectification dated 16th October 2017 in respect of the Gift Deed dated 4th September 2017.

9. We have perused the letter dated 29th March 2019, allegedly written by the appellant's husband. We may note here that the letter was addressed by him more than 16 months after the execution of the second Gift Deed. No allegations were made against the 4th and 5th respondents in

this letter. We have carefully perused the complaints dated 7th November 2020 and 12th November 2020 addressed by the appellant's daughter

- Sangita, to officers in charge of two different Police Stations. The letter dated 7th November 2020 records that the 4th respondent had left for the

UK and was staying there. We find no specific allegations against the 4th and 5th respondents in the complaint. It is pertinent to note that as stated in

the letter dated 7th November 2020 sent by the appellant's daughter Sangita, in January 2020, the appellant's husband gave her a copy of the

letter dated 29th March 2019. In both letters, there are only vague and general allegations against the 4th and 5th respondents. In the writing dated

24th November 2020, allegedly signed by the appellant, she had complained about the burn injuries sustained by her. Even in the letter, no specific

allegations were made against the 4th and 5th respondents. In the complaint dated 7th December 2020 addressed by the appellant to the

Commissioner of Police, Cyberabad, Telangana, only general allegations have been made that the 4th and 5th respondents were acting hand in hand at

the instance of the 2nd and 3rd respondents. This is the only allegation made against the 4th and 5th respondents. In the complaint dated 11th January

2021 made by the appellant, there is a bald allegation that the 2nd to 5th respondents compelled herself and her husband to execute the gift deeds. It is

also stated that the 2nd and 3rd respondents were ill-treating her other son, Akshay.

10. There is a delay involved in the registration of FIR. The letter dated 29th March 2019, which was relied upon by the appellant and addressed by

her husband, shows that on 29th March 2019, her deceased husband was aware of the two gift deeds executed by him and the appellant. The

appellant's husband complained about the gift deeds after a gap of 16 months from the date of the execution of the second gift deed. The

appellant's first complaint was on 24th November 2020. Apart from this delay, after having perused not only the letters/complaints of the appellant

but also the letters addressed by her husband and daughter, we find that the appellant has not made any allegation against the 4th and 5th respondents

ascribing them any specific role.

11. The role allegedly played by the 4th and 5th respondent is within the special knowledge of the appellant. She cannot improve upon what she said in

her earlier complaints/letters even if the investigation proceeds against them.

12. Therefore, the view taken by the High Court that the FIR deserves to be quashed as against the 4th and 5th respondents cannot be faulted.

Therefore, no case is made out to interfere in this criminal appeal. Accordingly, the Criminal Appeal is dismissed.