(2006) 10 AHC CK 0151

Allahabad High Court

Case No: None

Smt. Ranju		APPELLANT
	Vs	
State of U.P. and Others		RESPONDENT

Date of Decision: Oct. 13, 2006

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 156
- Penal Code, 1860 (IPC) - Section 304, 308

Hon'ble Judges: K.N. Ojha, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

K.N. Ojha, J.

Smt. Ranju Devi has preferred instant revision against order dated 10.7.05 passed by learned Addl. Sessions Judge (D.A.A.) Kanpur Dehat in Misc. Application No. Nil of 2006 whereby application moved u/s 156(3) of Cr.P.C. Police Station Ghatampur, district Kanpur Nagar was rejected.

2. Heard Sri Prashant Kumar Singh learned Counsel for the revisionist and learned AGA and have gone through the record. Record shows that revisionist Smt. Ranju Devi moved application against 13 persons including four ladies u/s 156(3) Cr.P.C containing the fact that Crime No. 222/06 u/s 308 IPC was registered against her husband Rajendra Singh. Later on the case was converted u/s 304 IPC. Her husband surrendered in the court of C.J.M. Kanpur Dehat on 29.4.06. It is said that on 1.6.05 revisionist 2 to 14 went to her residence looted Rs. 20,000/= cash, ornaments worth Rs. 40,000/=, took away 2 buffaloes, 2 goats, and 10 quintals wheat etc. Many persons witnessed the occurrence. She went to lodge FIR at Police Station Ghatampur, it was not written, then she moved application to the S.S.P. Kanpur Nagar but no action was taken. Thereafter she moved application u/s 156(3) Cr.PC which was rejected by learned Addl. Sessions Judge (D.A.A.) Kanpur Dehat, hence

this revision.

3. A perusal of the record shows that as many as 13 persons made raid at the house of the revisionist but not even a single abrasion or contusion was caused to her, nor there is any injury report in support of the fact that injury was caused to her. According to allegation of the revisionist the occurrence was witnessed by many persons including Ram Sewak, Hanuman, and Lakhan Lal etc. but no person has filed affidavit in support of the allegation of the revisionist. If animals, 10 quintals wheat etc. would have been taken away by the respondent 2 to 14 then conveyance would have been specified in respect of which the revisionist stated nothing. It does not appear natural that such heinous offence was committed but there is no evidence in support of it. Mere allegation of damage being caused, loot being made cannot be taken to be sufficient unless natural consequences follow which is medical examination of the victim-revisionist, statement or affidavit of the witnesses, details of the manner in which looted articles were taken away. If an allegation merely contains the ingredients of the offence but it does not appear natural merely on the basis of allegation as many as 13 persons cannot be prosecuted.

4. It has been held in 1976 SCC 507 Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi and Ors. by Hon''ble the Apex Court that where the allegation made in the complaint are patently absurd or are inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused or the discretion of the Magistrate is based on no evidence. The prayer for summoning the accused can be rejected. In 1992 SC 1815 Punjab National Bank v. Surendra Prasad Sinha it has been held by Hon''ble the Apex Court that relevant fact and circumstances should be considered before issuing the process: Process issued mechanically on the basis of complaint filed as vendetta to harass persons deserves to be quashed because judicial process would not be an instrument of oppression of needless harassment.

5. In this case where there is no evidence that injury was caused and no witness supports the case of the complaint, if the learned Magistrate has rejected the application u/s 156(3) Cr.PC there appears no jurisdictional error, illegality, irregularity in the impugned order. The revision is dismissed at the admission stage.