
(2017) 1 Crimes 673 : (2016) 4 JKJ 5

Jammu & Kashmir High Court

Case No: 562-A No. 25 of 2014 and Cr. MP No. 25 of 2014

Hira Lal Bhat

APPELLANT

Vs

Meena Bhat

RESPONDENT

Date of Decision: Sept. 17, 2016

Acts Referred:

- Jammu and Kashmir Criminal Procedure Code, 1989 - Section 561-A
- Ranbir Penal Code, 1989 - Section 494

Citation: (2017) 1 Crimes 673 : (2016) 4 JKJ 5

Hon'ble Judges: Mr. Tashi Rabstan, J.

Bench: Single Bench

Advocate: Mr. S.H. Rather, Advocate, for the Respondent; Mr. O.P. Thakur, Advocate and Mr. R.K.S. Thakur, Advocate, for the Appellant/Petitioner

Final Decision: Dismissed

Judgement

Mr. Tashi Rabstan, J. - Petitioner has invoked the jurisdiction of this Court under Section 561-A of the Code of Criminal Procedure

(hereinafter, for short, Cr.P.C.) for quashing the complaint filed by respondent-Meena Bhat before the learned Judicial Magistrate 1st Class,

Udhampur and the orders dated 12.02.2011, 03.03.2011 and 11.11.2011 passed by the learned Chief Judicial Magistrate, Jammu. He is also

seeking setting aside of order dated 16.12.2013 passed by the learned Sessions Judge, Jammu, whereby charge Section 494 RPC has been

framed against him.

2. The facts as revealed from the file are that respondent-Meena Bhat filed a complaint against the petitioner herein and one Rekha Devi under

Section 156(3) and Section 190 Cr.P.C. in the Court of learned Chief Judicial Magistrate, Udhampur, which later on came to be transferred to the

Court of learned CJM, Jammu. Thereafter, on the application filed, by respondent-Meena Bhat, the learned CJM, Jammu vide order dated

12.02.2011 permitted her to file the supplementary complaint. Thereafter, the learned CJM vide order dated 03.03.2011 observed that prima

facie offences under Sections 194/109 RPC had been disclosed against the petitioner and one Rekha Devi. The learned CJM, Jammu thereafter

vide order dated 11.11.2011 committed the case to the Court of learned Principal Sessions Judge, Jammu on the ground that the offences under

Section 494/109 RPC are triable by the Court of Sessions. However, the learned Sessions Judge vide order 12.04.2012 framed the charge

against the petitioner under Section 494 RPC.

3. Aggrieved of the same, the petitioner questioned the complaint filed by respondent-Meena Bhat and also challenged orders dated 12.02.2011,

03.03.2011 and 11.11.2011 passed by the learned CJM, Jammu as well as order dated 12.04.2012 passed by the learned Sessions Judge,

Jammu before this Court in a petition filed under Section 561-A Cr.P.C. bearing No. 145/2012. This Court vide judgment dated 12.07.2013

upheld the orders dated 12.02.2011, 03.03.2011 and 11.11.2011 passed by the learned Chief Judicial Magistrate, Jammu. However, order

dated 12.04.2012 passed by the learned Sessions Judge, Jammu came to be quashed by this Court on the ground that the learned Session Judge

without hearing the parties on the issues had framed the charge against the petitioner under Section 494 RPC, with a direction to the learned

Sessions Judge to hear the parties afresh before framing the charge on all the issues raised. Thereafter, the learned Scissions Judge after hearing the

counsel for the parties vide order dated 16.12.2013, impugned herein, has again framed the charge against the petitioner under Section 494 RPC.

Hence, the present petition.

4. The contention of learned counsel for petitioner is that the order dated 16.12.2013 is a non-reasoned order, as the learned Sessions Judge while

passing the said order and framing the charge against the petitioner did not record any finding on the issues raised by the learned counsel for

petitioner.

5. Heard learned counsel appearing for the parties and perused the file.

6. Admittedly, besides challenging order 16.12.2013 passed by the learned Sessions Judge, Jammu, the petitioner has also questioned the

complaint filed by respondent-Meena Bhat along with orders dated 12.02.2011, 03.03.2011 and 11.11.2011 passed by the learned CJM,

Jammu.

7. It is to be seen here that earlier also the petitioner had challenged the said complaint as well as orders dated 12.02.2011, 03.03.2011 and

11.11.2011 in 561-A No. 145/2012, before this Court, and this Court vide judgment dated 12.07.2013 had upheld all these three orders passed

by the learned CJM, Jammu on the ground that the same cannot be interfered with once the order dated 21.09.2010, considering the issue of

transfer of criminal complaint from the Court of Judicial Magistrate 1st Class (Munsiff), Udhampur to the Court of Chief Judicial Magistrate,

Jammu, has attained finality. Since the petitioner has failed to challenge the judgment dated 12.07.2013, therefore, in absence of the same, the

petitioner under law has no right to again question the aforesaid orders passed by the learned CJM, Jammu in the present petition. Otherwise too,

in criminal procedure, there is no provision for review of a criminal order.

8. So far as order dated 16.12.2013 is concerned, whereby the learned Sessions Judge has framed the charge against the petitioner herein under

Section 494 RPC, it is to be seen here that this Court in 561-A No. 145/2012, had directed the learned Sessions Judge to hear the parties afresh

before framing of charge on all the issues raised.

9. I have gone through the order dated 16.12.2013. A perusal of the order reveals that before framing the charge against the petitioner, both the

counsel were present before the trial Court along with their respective clients and they had advanced their arguments on the charge; to be framed.

Therefore, it cannot be said that the charge was framed against the petitioner without affording him an opportunity of being heard. Even otherwise,

the essence of judgment dated 12.07.2013 passed in 561-A Cr.P.C. No. 145/2012 was to hear the parties on the issues raised before framing of

the charge. Since the trial Court has framed the charge after hearing the parties, I do not find any ground to interfere with the order dated

16.12.2013 passed by the learned trial Court. Otherwise too, it is a settled proposition of law that the order of framing of charge under the Code

of Criminal Procedure need not to have all the details and reasons for framing of charge, as the same will amount to giving a judgment before the

trial. Once the counsels were heard, the mandate of the order of this Court dated 12.07.2013 passed in 561-A Cr. P.C. No. 145/2012 has been

met with. On this score too, the present petition does not have any merit, hence needs to be dismissed.

10. Therefore, in view of what has been discussed above, I do not find any merit in the petition and the same is, accordingly, dismissed along with

connected Cr. M.A.