IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

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

SUNITA KUMARI @ GUDIYA ...APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. ….RESPONDENT(S)

O R D E R

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.

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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

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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.

.....J.
[M.R. SHAH]

New Delhi
January 04, 2023

.....J.
[C.T. RAVIKUMAR]

ITEM NO.19 COURT NO.4 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 9899/2019

(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)

SUNITA KUMARI @ GUDIYA Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. Respondent(s)

(IA No. 156567/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 156569/2019 - EXEMPTION FROM FILING O.T.
IA No. 135521/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 04-01-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Mr. Avinash Sharma, AOR

For Respondent(s) Ms. Srishti Singh, AOR

Mr. Abhishek Rai, Adv.
Mr. Pratap Shanker, Adv.
Mr. Gyanant Singh, Adv.
Mr. Sarthak Shanker, Adv.
Mr. Kunal Kohli, Adv.
Mr. Swetank Shantanu, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The Appeal is allowed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA) (NISHA TRIPATHI)
ASTT. REGISTRAR-cum-PS ASSISTANT REGISTRAR
(signed order is placed on the file)