2025:AHC:186498

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No.17331 of 2023

Smt. Heerawati And Another ……Applicant(s)

Versus

State of U.P. and Another ……Opposite Party(s)

Counsel for Applicant(s)	:	Ganesh Shankar Srivastava, Vinod Kumar Maurya
Counsel for Opposite Party(s)	:	Deo Prakash Singh, G.A., Krishna Kumar Shukla

AFR
Reserved on : 9.9.2025
Develiered on : 17.10.2025

Court No. - 76

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard Sri Ganesh Shankar Srivastava, learned counsel for the applicants, Sri Deo Prakash Singh, learned counsel for the opposite party no.2 and learned A.G.A. for the State.

2. The present application is preferred by Applicants under Section 482 of Criminal Procedure Code, 1973 challenging the summoning order dated 7.1.2022 passed by Special Chief Judicial Magistrate, Allahabad as well as entire proceedings of Complaint Case No.745 of 2021 (Gyanendra Sharma Vs. Smt. Heerawati and another), Police Station-Colonelganj, District-Prayagraj, under Sections 504 and 506 of Indian Penal Code, pending in court of Special Chief Judicial Magistrate, Allahabad.

3. Initially, the opposite party no.2 preferred an application under Section 156 (3) Cr.P.C. against the Applicants and four unknown persons. The aforesaid application was preferred before Special Chief Judicial Magistrate, Allahabad. The learned Magistrate by order dated 6.7.2021 called for report from the police station concerned. After receiving the report from the police station concerned, the above-mentioned application was registered as a Complaint Case No.745 of 2021, Gyanendra Sharma Vs. Smt. Heerawati and others.

4. The prosecution case as per above-mentioned application/complaint is to the effect that the opposite party no. 2-complainant was married to Smt. Prathiba Nanda on 24.2.2019. Thereafter, wife came to matrimonial home on 25.2.2019. No dowry was taken in the marriage by complainant or his family members. The gift given by father of Smt. Prathiba Nanda-wife at the time of marriage is with her. On the first night of marriage, the wife informed the complainant that she was having love affair with another person and marriage with the complainant has taken place without her consent. The complainant in order to keep the wife happy took her to Kerala from 1.3.2019 to 10.3.2019, however, the relationship did not improve and the wife was pressurising the complainant to come back to matrimonial home and she used to fight with the complainant. The wife also used to threaten the complainant with dire consequences.

5. It is also alleged in the complaint preferred by complainant that on 30.4.2021 when the complainant was not present at the house, the wife without informing any person taking away all her stridhan and clothes went to her parental home. On 5.5.2021 at about 6 P.M., the father of wife-Applicant no.2 and mother of the wife-Applicant no.1 and four other persons came to house of the complainant and started abusing the complainant and his family members, when the same was resisted, the aforesaid persons have assaulted the complainant and his family members and have destroyed the things lying in the house. When the alarm was raised by complainant, the neighbours came to house of complainant and thereafter, accused persons went away threatening for

life. It is also alleged in the complaint that as a result of assault, complainant and his family members also sustained injuries.

6. The court concerned thereafter recorded statement of complainant under section 200 of Code of Criminal Procedure, 1973. The complainant in his statement before the court concerned has stated that he was married to Smt. Prathiba Nanda on 24.2.2021. It is also alleged that the relationship with the wife was not good. The wife is living at her maternal home since 30.4.2021. On 5.5.2021 the Applicant nos. 1 & 2 came to the house of complainant and abused & threatened that if opposite party no.2 come to take Smt. Prathiba Nanda, they would kill the complainant. The complainant had made complaint to police however, no action was taken.

7. Further, the court concerned has recorded the statement of Sri Dharam Sharma under Section 202 of Code of Criminal Procedure, 1973. The aforesaid witnesses stated that incident is of 5.5.2021 at about 6.00 P.M. when the aforesaid witness was at his residence then the Applicants along with four other persons came and called complainant and thereafter, entered in the room of complainant and started abusing him. The Applicants also threatened the complainant with his life. The witness has further stated that he reached the place of occurrence after hearing the voice. The Applicant no.1 stated that why the wife was not called by the complainant. The complainant stated that in April 2021 when the complainant was not present at house, the wife took all valuable, clothes, sarees and other valuable jewellery with her and went to her maternal home without informing the complainant. When the complainant contacted the wife, she started abusing. The complainant and the witness were beaten. The unknown persons have beaten the parents of witness. The accused persons have taken illegal weapons and threatened to kill and went into the complainant’s room and damaged the things lying including the television.

8. The court concerned on 7.1.2022 passed an order summoning the Applicants under section 504 and 506 of Indian Penal Code.

9. Learned counsel for applicants submits that impugned order is illegal, arbitrary, and not sustainable in eyes of law. It is further submitted that the daughter of applicants, namely, Pratibha Nanda was married to complainant and was being subjected to cruelty by her in-laws including the complainant in view of demand of dowry of ₹ 5 lakhs and a four wheeler and ultimately on 30.4.2021 the complainant sent the wife back to her parental home. In regard to the aforesaid incident, the daughter of applicants had lodged a first information report against her in-laws and the complainant-husband. The first information report was lodged on 11.2.2022 under Section 498A, 406, 323, 504, 506 and 3/4 of Dowry Prohibition Act, 1961. The Investigating Officer in pursuance to the above-mentioned first information report, after investigation submitted chargesheet against the complainant and his parents and the court concerned has taken cognizance of the offence by order dated 6.8.2022. Counsel for applicant further submits that no such incident has taken place as has been alleged in the complaint and the complainant in order to save his skin from the offence committed as detailed in the above-mentioned first information report has made with false and baseless allegations in the complaint. It is further submitted that even otherwise no offence under Section 504 and 506 of Indian Penal Code is made out against the Applicants. The present criminal proceedings against the Applicants are based on malafides intention in order to harass the Applicants and as such is liable to be quashed.

10. Learned counsel for opposite party No. 2 has opposed the prayer made by counsel for Applicant. It is submitted by learned counsel for opposite party no 2 that the offence under section 504 and 506 of Indian Penal Code is made out against Applicants. It is also submitted that daughter of Applicants was not expelled from the house but she left the complainant out of her free will. It is submitted by counsel for opposite party no 2 that Applicants has abused in filthy language to entire family and have also beaten as such the Applicants have been rightly summoned by the impugned order dated 7.1.2022.

11. The Applicants are summoned under Sections 504 and 506 of Indian Penal Code. The Applicants have put to challenge the summoning under the aforesaid sections on the ground that no offence is made out against the applicants. The offence under Section 504 of Indian Penal Code prescribes that whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. The offence under Section 504 I.P.C. requires that there should be intentional insult and thereby giving provocation to any person intending or knowing that such provocation will cause him to break public peace or to commit any offence. In the present case, there are no material circumstances and particulars to show that there was any intentional insult which would give provocation to complainant to cause any break of public peace or to commit any offence as such the material ingredient of offence under Section 504 I.P.C. is not made out from the prosecution case. A perusal of statement of complainant would go to show that the complainant has alleged that the Applicants abused the complainant however, the nature of words uttered by Applicants have not been stated in statement of complainant before the court concerned. The allegations in respect of the offence under Section 504 of Indian Penal Code are vague in nature and lacks specification. It has not been brought on record by means of material particulars as to the intentional insult committed by Applicants, thereby giving provocation to complainant which will cause him to break public peace or to commit any offence.

12. Further, Section 506 I.P.C. provides punishment for offence of criminal intimidation. The offence of criminal intimidation has been described under Section 503 of Indian Penal Code and the same is quoted herein below :-

"503. Criminal intimidation.-Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to

that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.-A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

13. An act of criminal intimidation would occur when a person threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation. A perusal of the complaint would demonstrate that the allegation in respect of the aforesaid offence is to the effect that the Applicants along with other unknown persons on 5.5.2021 have stated that if the complainant came to the house of the Applicants for taking away the wife, he would be killed. The complaint does not specify as to what was the language used/uttered by Applicants. The complainant and the Applicants are relatives, the Applicants being the father-in-law and mother-in-law of the complainant, it is not in dispute between the parties that there is a matrimonial dispute between husband and wife. The allegations as per the complaint is against six persons, two known persons (being Applicants) and four unknown persons. It has not been stated in the complaint or in the statement of the complainant before the court concerned as to the person who has extended the threat of life to the complainant. General allegation with regard to threatening of life by the Applicants and four other accused persons have been made without any specification.

14. The background of the dispute between the parties is essentially required to be examined by the court while considering the question of the proceedings. It is not in dispute between the parties that the Applicants and the complainant are relatives. It is also not in dispute that

a matrimonial dispute between the parties has arisen on account of the friction between husband and wife. The complainant does not specify in the complaint as to the person who have given the threatening of life to the complainant although, in the complaint there are general allegations against six persons. Such vague and general allegations, which lacks specification does not fulfil the requirement of summoning the Applicants under Sections 506 of Indian Penal Code.

15. In view of the aforesaid, the court concerned erred in issuing summons against Applicants under Sections 504 and 506 of Indian Penal Code. The summoning order dated 7.1.2022 passed by Special Chief Judicial Magistrate, Allahabad as well as entire proceedings of Complaint Case No 745 of 2021 (Gyanendra Sharma Vs. Smt. Heerawati and another), Police Station – Colonelganj, District – Prayagraj, under Sections 504 and 506 of Indian Penal Code, pending in court of Special Chief Judicial Magistrate, Allahabad, are hereby quashed.

16. The present application under section 482 of Code of Criminal Procedure is hereby allowed.

(Vikram D. Chauhan, J.)

October 17, 2025
Bhaskar

Digitally signed by :-
BHASKAR
High Court of Judicature at Allahabad