

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.....OF 2023
(Arising out of S.L.P. (Crl.) No. 12749 of 2022)

MANSOOR ALI

.....Appellant(s)

Vs.

THE STATE OF ANDHRA PRADESH & ORS.

.....Respondent(s)

WITH

CRIMINAL APPEAL NO.....OF 2023
(Arising out of S.L.P. (Crl.) No. 348 of 2023)

O R D E R

Leave granted.

Both the appeals challenge a common judgment of the Uttrakhand High Court (in Criminal Miscellaneous Application No. 1129 of 2021) whereby the First Information Report (hereinafter referred to as "FIR") lodged by the appellant - wife Ms. Afroz (hereinafter referred to as "Afroz"), who approached this Court in [SLP(Crl.) No. 348 of 2023] was quashed. In the FIR Afroz alleged commission of offences by her husband Mansoor Ali (hereinafter referred to as "Mansoor") who is petitioner before this Court in [SLP(Crl.) No. 12749 of 2022].

The High Court after considering the record quashed two offences enumerated in the FIR i.e. Section 498A IPC and Sections 3/4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019. Afroz in her complaint had alleged that she was subjected to physical abuse by Mansoor - husband, had entered into relationship with other woman and had also pronounced the triple talaq. The FIR to the extent it is relevant is extracted below:

"The applicant's husband is having an illegal relationship with another woman. Because of which her husband keeps on beating her, quarrels with her and tortures her in various ways. Sir, tomorrow on 06.02.2021, between 10 to 11 o'clock in the day, there is an incident between the applicant's husband Mansoor Ali s/o Mr. Shakeel Ahmed resident Egg Market, Mallital, Nainital and Israr s/o Nasir resident Rajeev Nagar Beng Nainital ali Colony Lalkuan. He came to my house and told me that I do not like you, so I am divorcing you now. At that time my sister-in-law Shabnam, Babli, my mother Firdaus and my father Mohd. Ali were present in the house. In front of them, my husband Mansoor Ali left my house quickly by saying talaq-talaq-talaq to me. Sir, the life of the applicant and her children has been ruined. The applicant is in danger of life and property due to the above. Therefore, it is a request to Sir that by registering a case against Mansoor Ali S/o Mr. Shakeel Ahmed resident of Anda Market, Mallital, Nainital under appropriate sections, please take legal action and try to protect my life and property."

It was urged by Mansoor - the husband that the High Court erred in not quashing the offence alleged under Section 323 IPC even though the observations in the impugned order, establish its untenability. It was submitted that the parties were having smooth

relationship and have lived peacefully together for over 13 years and that the cause for friction appear to be some family dispute.

Learned counsel for the State and Afroz on the other hand submitted that the impugned order of the High Court to the extent it quashed the offences under Sections 498A and Sections 3/4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 was unwarranted having regard to the totality of facts. It was highlighted that after investigation the charge-sheet was filed in which Mansoor was charged with committing all the three offences. Given these circumstances, the approach of the High Court in terming the allegations by Afroz as vague and are incorrect.

The FIR clearly points to three elements i.e. that the wife - Afroz was subjected to alleged cruelty ("beaten"); the husband - Mansoor had allegedly pronounced the triple talaq which after coming into the force of the Muslim Women (Protection of Rights on Marriage) Act, 2019 which outlaws such practice and renders it a punishable offence. The offence, when proved, entail imprisonment for a of term up to three years. It is a matter of record that charge-sheet was filed by the police after investigation into these allegations.

Given all these circumstances, this Court is of the opinion that the quashing of FIR to the extent it pertained to allegations relatable to Section 498A IPC, and Sections 3/4 Muslim Women (Protection of Rights on Marriage) Act, 2019 was uncalled for. The impugned order is, therefore, set aside to that extent. The charge-sheet shall, therefore, read in the light of the present order. The trial Court is directed to go ahead with the

proceedings from the stage where they were when the impugned judgment is pronounced.

The appeal filed by Afroz's - wife is allowed to the above extent. The appeal filed by Mansoor - husband is accordingly, dismissed.

.....J.
(S. RAVINDRA BHAT)

.....J.
(ARAVIND KUMAR)

New Delhi;
August 29, 2023.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 12749/2022

(Arising out of impugned final judgment and order dated 25-11-2022 in CRLMA No. 1129/2021 passed by the High Court of Uttarakhand at Nainital)

MANSOOR ALI

Petitioner(s)

VERSUS

STATE OF UTTARAKHAND & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.201267/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.201268/2022-EXEMPTION FROM FILING O.T.)

WITH

SLP(Crl) No. 348/2023 (II-B)

(FOR ADMISSION and I.R. and IA No.4472/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.4474/2023-EXEMPTION FROM FILING O.T.)

Date : 29-08-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE ARAVIND KUMARFor Petitioner(s) Ms. Shashi Kiran, AOR
Mr. Dr Satish Chandra, Adv.
Mr. Arjun Sain, Adv.
Ms. Sangeeta Bhalla, Adv.
Mr. Manish Shukla, Adv.

Mr. Namit Saxena, AOR

For Respondent(s) Mr. Namit Saxena, AOR

Mr. Ravindra S. Garia, AOR
Mr. Shashank Singh, Adv.
Mr. Vikas Negi, Adv.
Mr. Madan Chandra, Adv.Mr. Jaswant Singh Rawat, AOR
Ms. Ikshita Parihar, Adv.

Mr. Vikas Negi, Adv.

Ms. Shashi Kiran, AOR
Dr. Satish Chandra, Adv.
Mr. Arjun Sain, Adv.
Ms. Sangeeta Bhalla, Adv.
Mr. Manish Shukla, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal @ SLP(Crl) No. 348/2023 filed by Afroz's -
wife is allowed in terms of signed order.

The appeal @ SLP(Crl) No. 12749/2022 filed by Mansoor -
husband is dismissed in terms of signed order.

All pending applications are disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(Signed order is placed on the file)

(BEENA JOLLY)
COURT MASTER (NSH)