



2025 INSC 1217

Crl.A. @ S.L.P.(Crl.)No.2241 of 2023

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No. 4415 of 2025
(Arising out of S.L.P. (Crl.) No.2241 of 2023)**

BHAWNA JAIN

... Appellant (s)

VERSUS

**STATE OF UTTAR PRADESH
AND ANOTHER**

... Respondent(s)

ORDER

Leave granted.

2. The appellant has filed the present appeal impugning the order dated 24.01.2023 passed by the High Court of Judicature at Allahabad. Vide aforesaid order, the application¹ filed by the appellant seeking quashing of chargesheet dated 25.11.2021, summoning order dated 09.02.2022 and further proceedings arising out of FIR No.506 of 2021 registered under Sections 406, 420, 504 and 506 of IPC at police station Nai Mandi, District Muzaffarnagar, was dismissed.

¹ Criminal Misc. Application No. 38152 of 2022.

3. Briefly, the pleaded facts are that a plot no.70, measuring 240 square yards, was purchased jointly by the late husband of the appellant (Atul Kumar Jain) and Anurag Jain, respondent No.2/ complainant, on 01.01.2014. After the purchase, the disputed property was mutually partitioned on 15.02.2015. The northern portion came to be the share of the late husband of the appellant, whereas the southern portion was allotted to the respondent No.2/complainant. The late husband of the appellant raised a loan of ₹25 lakhs from Allahabad Bank by mortgaging his share of property, which now stands repaid. The husband of the appellant expired on 15.10.2016. No issue was raised by the respondent No.2/ complainant regarding any dispute during the lifetime of her late husband. About two years after the death of the husband of the appellant, respondent No.2 filed a Private Complaint No.2233/9 of 2018 in the Court of Chief Judicial Magistrate, Muzaffarnagar, under Section 409 read with 420 IPC against the appellant and some officials of Allahabad Bank. The Trial Court, in the aforesaid complaint, vide order dated 14.11.2019, directed the police to conduct investigation under Section 202 Cr.P.C. The police investigated the matter and submitted a

report dated 05.01.2020 to the Court, clearly mentioning therein that the loan was raised by late husband of the appellant against his share of the plot. During the pendency of the aforesaid complaint, a settlement was arrived at between the appellant and the respondent No.2/ complainant, the terms thereof were reduced to writing on 29.09.2020. A cheque for ₹1,00,000/- was issued by the appellant to respondent No.2/ complainant. Subsequent thereto, respondent No.2/ complainant filed an application before the Court concerned seeking permission to withdraw the complaint. The prayer was allowed, and the complaint filed by the respondent No.2 was dismissed as withdrawn under Section 203 Cr.P.C., vide order dated 04.09.2021.

4. Immediately thereafter, the respondent No.2/complainant, concealing the factum of filing of earlier complaint and dismissal thereof as withdrawn, filed fresh complaint bearing No.1811/11 of 2021 under Section 156(3) Cr.P.C. on the basis of which the FIR in question was registered. Chargesheet was filed on 25.11.2021, on which the Court took cognizance on 09.02.2022 by summoning the appellant. It was at this stage that the appellant filed application before the High

Court seeking quashing of all proceedings in pursuance of the FIR in question. The same having been dismissed, the order is impugned before this Court.

5. Referring to the aforesaid factual matrix, the learned counsel for the appellant submitted that the intention of respondent No.2/ complainant is to harass the appellant and to “arm-twist” her to gain undue benefit, much after the death of her husband. The appellant is a cancer patient since 2016. The second complaint was filed by the respondent No.2/ complainant after withdrawing the earlier complaint, with the same allegations, and without disclosing this fact in the second complaint. The aforesaid facts have not been properly appreciated by the Courts concerned. In fact, it had come in the police report submitted in the first complaint filed by the respondent No.2/ complainant that the late husband of the appellant had mortgaged his share of the property to avail the loan, which otherwise now stands fully settled by the appellant after the death of her husband. The appellant was merely a guarantor of the loan. It was merely a civil dispute which has been given a different colour. The allegations in the second complaint filed in the Court were merely that on 30.08.2021 the

respondent No.2/complainant asked appellant either to pay the amount according to the compromise or to get the property released after repayment of the loan, she misbehaved. The fact remains that the first complaint was withdrawn by the respondent No.2/complainant much later on 04.09.2021. Any allegations prior to that will not make out a case for registration of a criminal case. In any case, the alleged violation of any compromise will not result in any criminal liability. Continuation of the proceedings against the appellant would amount to abuse of the process of law and result in unnecessary harassment of the appellant, in which she has no role to play.

6. On the other hand, learned counsel for the respondents submitted that there is no error in the impugned order. The appellant, being a guarantor in the loan raised by her late husband, had knowledge of the entire case, hence, was party to the cheating. She can also be proceeded against independently, even after death of her husband, if the settlement arrived at by the appellant was not adhered to.

7. Heard learned counsel for the parties and perused the relevant record.

8. Some of the facts not in dispute are that the plot in dispute was purchased jointly by the late husband of the appellant and the respondent No.2/complainant on 01.01.2014. A loan of ₹25 lakh was raised by the late husband of the appellant from Allahabad Bank on 25.02.2015. Though the appellant pleaded that the property was partitioned before that on 15.02.2015, this fact has been disputed by the respondent No.2/ complainant. It is alleged by the appellant that the loan was raised by mortgaging the share of the property which had come to the share of the late husband of the appellant. The appellant was merely a guarantor to the loan. This was also reported by the police upon investigation, as directed by the Court in the first complaint filed by the respondent No.2/complainant. The husband of the appellant died on 15.10.2016. Till that date and about two years thereafter, respondent No.2/ complainant did not raise any issue. The first complaint, dated 04.07.2018, was filed by him in the Court. A compromise was arrived at between the parties during the pendency of the aforesaid complaint on 29.09.2020. The first complaint was withdrawn by the respondent No.2/ complainant on 04.09.2021. Immediately thereafter, a fresh complaint was

filed with the same allegations, with the addition of non-adherence to the terms of compromise. The factum of filing and withdrawal of the earlier complaint was concealed. On the basis of the aforesaid complaint, FIR in question was registered in which, the appellant was arrayed as accused no. 1 along with 3-4 unknown persons.

9. The facts, as briefly noticed above, clearly show that the appellant was not the co-owner of the property with the respondent No.2/ complainant; and it was her late husband who died on 15.10.2016. During his lifetime and nearly two years thereafter, no issue was raised by the respondent No.2/ complainant. The appellant was merely a guarantor to the loan raised by her late husband, which even as per the police report, was against his share of the property. The fact that the loan now stands repaid is not in dispute. An earlier complaint filed by the respondent No.2/ complainant with the same allegations against the appellant and bank officials came to be dismissed as withdrawn. In the second complaint, the appellant was shown as accused No.1, whereas 3-4 unknown accused were mentioned. The second complaint was filed without disclosing the factum of the filing and withdrawal of the first complaint

concerning the same dispute. Even in the chargesheet filed in pursuance of the FIR in question, there is no mention of the filing and withdrawal of the first complaint for the same dispute. The chargesheet did not elucidate as to how the case was made out against the appellant. Even in the cognizance and summoning order passed by the Court below, no reasons have been assigned as to how a case is made out against the appellant, who was merely a guarantor to the loan, which, after the death of the husband of the appellant, stands settled. From the facts as noticed above no case for summoning the appellant in the complaint was made out.

10. For the reasons mentioned above, in our view, the present appeal deserves to be allowed as continuation of the proceedings against the appellant, in pursuance of the FIR in question will amount to abuse of process of law. Accordingly, the impugned order dated 24.01.2023 passed by the High Court is set aside. FIR No. 506 of 2021 dated 04.10.2021 registered at police station Nai Mandi, District Muzaffarnagar and all proceedings subsequent thereto, including the summoning order dated 09.02.2022, stand quashed.

11. The appeal is accordingly, allowed.

....., J.
[RAJESH BINDAL]

....., J.
[PRASHANT KUMAR MISHRA]

New Delhi;
September 16, 2025.