

POOJA ABHISHEK GOYAL

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v.

STATE OF GUJARAT & ORS.

(Special Leave Petition (Crl.) No. 7121 of 2011)

APRIL 25, 2014

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[T.S. THAKUR AND GYAN SUDHA MISRA, JJ.]

*Code of Criminal Procedure, 1973: s.173(8) – Dowry case filed by petitioner-wife against husband and in-laws – Charge-sheet – At the time of framing of charges, petitioner filed application seeking further investigation of the case with respect to her 'stridhan' properties and the palmtop communicator, stating that though in the complaint there was a specific case that 'stridhan' was with husband and his family members, no efforts were made by Investigating Officer to recover it – Further investigation ordered – Ornaments produced by husband but refusal by petitioner to take them on the ground that they were not the complete ornaments – Investigating Officer finally gave report that nothing was required to be done with respect to the Palmtop – Thereafter, petitioner submitted another application before Magistrate for further investigation u/s.173(8) with a special direction that the same be conducted under the direct supervision of an officer not below the rank of Asstt. Commissioner of Police of zone, within whose jurisdiction the Police Station falls, reiterating the same grievance which was made earlier – Magistrate allowed the said application – Revision application by respondents partly allowed observing that Magistrate was not justified in directing further investigation on a particular aspect (Stridhan and Palmtop) and that too by a particular officer – High Court upheld the order – SLP – Held: High Court was right in holding that all steps pertaining to investigation of stridhan property had been allowed in favour of the petitioner and even suo moto investigation was conducted by the police which subsequently*

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- A was confirmed by the order of the Magistrate – Thus, whatever was legally possible was already allowed in favour of petitioner – The attending circumstances showed that she had not moved the Court bonafide but perhaps to teach a lesson to the respondent-husband rather than recovery of her stridhan property – In any view, if the investigation conducted by the authorities did not suffer from the lacunae or serious infirmity, there is no reason to issue any further direction to the court below to take steps in the matter – However, all remedies in accordance with law for recovery of ‘stridhan property’, would be available to the petitioner.
- C

*Hemant v. CBI, (2001) CrI. L.J. (SC) 4190 – relied on.*

**Case Law Reference:**

- D (2001) CrI. L.J. (SC) 4190 relied on Para 6

CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Criminal) No. 7121 of 2011

- E From the judgment and order dated 13.12.2010 of the High Court of Gujarat at Ahmedabad in Special Criminal Application No. 2145 of 2010.

S.B. Sanyal, Huzefa Ahmadi, Abhijat P. Medh, Rauf Rahim, Yadunandan Bansal for the appellant.

- F Jesal, Hemantika Wahi, S. Panda for the respondents. Respondent-in-person.

The order of the Court was delivered by

- G **GYAN SUDHA MISRA, J.** 1. The petitioner herein has filed this special leave petition challenging the order passed by the learned single Judge of the High Court of Gujarat at Ahmedabad in Special Criminal Application No.2145 of 2010 whereby the High Court dismissed the petition filed by the

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petitioner and upheld the order passed by learned 3rd Additional Sessions Judge dated 20.10.2010 passed in Criminal Revision Application No.70/2010. The petitioner and the contesting respondent and all other counsel in the matter were heard at the stage of admission itself after which the order had been reserved.

2. The petitioner's case is that she is the wife of respondent No.2 and respondent Nos.3 to 6 are the family members of respondent No.2 i.e. father-in-law, mother-in-law and sister-in-law of the petitioner-original complainant. The marriage between the petitioner and the respondent No.2 was solemnized at Ahmedabad on 22.11.2007 and soon after their marriage, the petitioner and respondent No.2 stayed together at the house of in-laws of the petitioner and thereafter they went for honeymoon to Bali. On their return, there was a dispute between the petitioner and the respondent No.2 and the petitioner straightaway went to her parental home. Thereafter, the petitioner had lodged one FIR before the Satellite Police Station against respondent Nos.2 to 6 for offences punishable under Sections 498-A, 406, 34 and 114 of IPC and Sections 3 and 4 of Dowry Prohibition Act, which was registered as C.R. No.1-274/2008. After completion of the investigation, respondent Nos.2 to 6 were chargesheeted for the above mentioned offences. At the time, when the learned CJM was to frame the charge against respondent Nos.2 to 6, the petitioner submitted an application (Exh.8) before the learned CJM for an appropriate order directing the Investigating Officer of Satellite Police Station to further investigate the case with respect to her 'stridhan' properties and the palmtop communicator, stating that though in the complaint there was a specific case that 'stridhan' is with respondent No.2 and his family members, no efforts were made by the Investigating Officer to recover the Stridhan.

3. The learned CJM partly allowed the application and directed the Investigating Officer of the Satellite Police Station

- A to further investigate the case with respect to the Stridhan and Palmtop Communicator and submit a report regarding the same within 30 days. Thereafter, the Investigating Officer conducted further investigation and respondent No.2 produced certain ornaments in the Police Station but the petitioner and her family members refused to take those ornaments which were produced by submitting that they were not the complete ornaments/stridhan. After further investigation and necessary inquiry, it was found that no palmtop was carried by respondent No.2 while going to Bali and therefore the concerned Investigating Officer opined that nothing was required to be done with respect to the Palmtop. Thereafter, on the basis of the aforesaid further investigation, the Police Inspector, Satellite Police Station submitted the report to the learned CJM pursuant to the order passed by learned CJM for further investigation under Section 173 (8) of Cr.P.C.

4. In the meantime, the petitioner submitted an application (Exh.47) requesting learned CJM to call for, from the IO, all statements, documents, communications and/or processes carried out in compliance to the order of further investigation dated 12.03.2009 in respect to which reports dated 13.04.2009, 08.05.2009, further report dated 08.05.2009, additional reports dated 08.05.2009, 23.05.2009, 16.06.2009, 30.06.2009 and 17.09.2009 which had been tendered before the Court. Learned CJM dismissed the said application by order dated 30.01.2010.

5. Thereafter, the petitioner submitted another application (Ex.55) before the learned Magistrate for an appropriate order and to direct further investigation under Section 173 (8) of Cr.P.C. with a special direction that the same be conducted under the direct supervision of an officer not below the rank of Asstt. Commissioner of Police of zone, within whose jurisdiction the Satellite Police Station falls, reiterating the same grievance which was made earlier while submitting the application (Ex.8 and Ex.47) and submitting that Investigating

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Officer has failed to recover the stridhan and the Palmtop. Learned CJM by order dated 07.08.2010 allowed the said application and directed the Assistant Commissioner of Police of the zone to hold further investigation with respect to stridhan and Palmtop and to submit the report within 30 days.

6. The respondents dissatisfied with the above order preferred revision application before the Sessions Court and the 3rd Additional Sessions Judge by order dated 20.10.2010 partly allowed the revision application and set aside that part of the order of the learned CJM by which there was a specific direction for further investigation with respect to stridhan and Palmtop, but maintained the order with respect to further investigation by observing that learned CJM was not justified in directing further investigation on a particular aspect (Stridhan and Palmtop) and that too by a particular officer, relying upon decision of the Supreme Court in the case of *Hemant Vs. CBI*, reported in (2001) Cri. L.J. (SC) 4190 and the decision of this Court in Criminal Revision Application No.738/2008 that the Magistrate should not direct that a particular officer or even an officer of particular rank should conduct further investigation.

7. The petitioner being aggrieved with the above order passed by Revisional Court, preferred Special Criminal Application in the High Court of Gujarat at Ahmedabad under Article 227 of the Constitution. But the learned single Judge was pleased to dismiss the same and hence this special leave petition.

8. We have heard the counsel for the parties as also the contesting respondent who appeared in person and perused the impugned order passed by the High Court whereby the learned single Judge has taken note of the fact that the Revisional Court had directed further investigation by the concerned officer in charge of the Satellite Police Station which had the capacity to include every circumstance and thus no prejudice in the opinion of the learned single Judge would be

A caused to the petitioner and, therefore, the impugned order passed by the learned Ill Addl. Sessions Judge, Ahmedabad dismissing the criminal revision petition was not required to be interfered with by the High Court.

B 9. Having considered the sequence of events and all the circumstances, we agree with the view of the learned single Judge that all steps pertaining to the investigation of the stridhan property of the petitioner had been allowed in favour of the petitioner and even suo motō investigation was conducted by the police which subsequently was confirmed by the order of the Magistrate. However, as per the averment of the petitioner C the revisional court interfered and disturbed the course of investigation, but the High Court appears to have correctly noted that the revisional court has also permitted further investigation by the concerned officer in charge of the Satellite D Police Station in regard to the complaint of the petitioner alleging non-recovery of her stridhan property. Thus, whatever was legally possible has already been allowed in favour of the petitioner and yet she has come up to this Court by way of this special leave petition. From the attending circumstances, we E are inclined to infer that she has not moved this Court bonafide but perhaps to teach a lesson to the respondent-husband rather than recovery of her stridhan property. In any view, if the investigation conducted by the authorities do not suffer from the lacunae or serious infirmity, we do not see any reason to issue F any further direction to the court below to take steps in the matter. It goes without saying that all remedies that may be available to the petitioner in accordance with law for recovery of her 'stridhan property', would surely be made available to her. But in so far as the impugned order of the High Court is G concerned, the same does not require any interference in our considered view. We, thus do not find any reason to entertain this special leave petition which is hereby dismissed at the admission stage itself.

H D.G. SLP dismissed.

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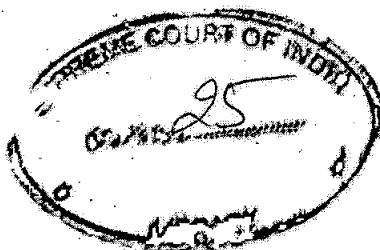
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