

2025 LiveLaw (SC) 966

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

AHSANUDDIN AMANULLAH; J., SATISH CHANDRA SHARMA; J.

17 SEPTEMBER, 2025

CRIMINAL APPEAL NO. OF 2025 (Arising out of SLP(Crl.) No.6904 of 2025)

DEEPAK YADAV AND ANOTHER *versus* STATE OF UTTAR PRADESH AND ANOTHER

Indian Penal Code, 1860 - Section 394, 482 - Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Cognizance and Framing of charges – Held, the High Court’s procedure of remanding without liberty for fresh investigation or inquiry by the Trial Court was contrary to law - Trial Court was required to independently form satisfaction with regard to applicability of Section 394 IPC based on full materials, including police investigation and witness statements - Trial Court’s reliance solely on affidavits filed by complainant’s witnesses to take cognizance under Section 394 IPC was disapproved - Supreme Court emphasized on the necessity of producing entire statements recorded under Section 161 Cr.P.C. and case diary for proper evaluation by the Trial Court - The addition of offences based on private affidavits should not be mechanically done by the Trial Courts and they must ensure fairness by relying on proper investigation or directing further probe when allegations of suppression arise - Supreme Court remanded with direction to the Trial Court to call for the complete investigation materials and further investigation if necessary, followed by framing of charges. The investigation must be free, impartial, and all relevant material should be disclosed. [Para 5-10]

[Arising out of impugned final judgment and order dated 11-11-2024 in Application under Section 482 No.21222/2024 passed by the High Court of Judicature at Allahabad]

For Petitioner(s) Mr. Gaurav Yadav, Adv. Mr. Chand Qureshi, AOR Mr. Vijay Kumar, Adv. Mr. Sundeep Pandhi, Adv. Mr. Syed Mazahir Husain Chishty, Adv. Mr. Syed Danish Hasan, Adv. Mr. Santanu Chatterjee, Adv. Mr. Rahul Mohod, Adv. Mr. Sanjay Gyan, Adv.

For Respondent(s) Mr. Arup Banerjee, AOR Mr. Divyanshu Sahay, Adv. Mr. Shiv Pratap Singh., Adv. Mr. Kumar Rupak, Adv. Mr. Sanjeev Sharma, Adv. Mr. Rajiv Agnihotri, Adv. Mr. Anuj Bhandari, AOR Ms. Jahanvi Bhardwaj, Adv. Mr. Gaurav Jain, Adv.

ORDER

Heard learned counsel for the parties.

2. Leave granted.

3. The appellants are aggrieved by the impugned order dated 11.11.2024 passed by the High Court of Judicature at Allahabad in Application under Section 482 No.21222 of 2024, by which the High Court has refused to interfere in the order dated 27.07.2023 passed by the Special Judge, SC/ST Act, Jhansi in Special Case No.489 of 2018 where the Court has added Section 394 of the Indian Penal Code, 1860 (for short, the “IPC”) in the charges framed against the appellants.

4. Learned counsel for the appellants submitted that initially, the FIR was registered under Sections 394, 452, 323, 504 and 506 of the IPC and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the “1989 Act”). However, the Police upon full inquiry/investigation submitted the charge sheet under Sections 452, 323, 504 and 506 of the IPC and under Section 3(1)(D) of the 1989 Act where, Section 394 of the IPC was omitted. It was submitted that the

complainant-respondent no.2 had filed an application before the Trial Court praying for addition of Charge against the appellants under Section 394 of the IPC also. The same was rejected and charges were framed under Sections other than Section 394 of the IPC. This led to the complainant to move before the High Court and the High Court had disposed of the matter with liberty to the complainant to file an application before the Trial Court for leading evidence and filing documents in support of his contention. In the second round also, the Trial Court did not frame charge under Section 394 of the IPC which again, prompted the complainant to move before the High Court and the High Court again remanded the matter to the Trial Court. It was submitted that in the third round, the Trial Court has taken cognizance under Section 394 of the IPC also. Thereafter, the appellants moved before the High Court against the said order, which was dismissed by the High Court leading to filing of the present appeal.

5. It was submitted that the whole procedure adopted by the High Court is totally unknown to law. It was further submitted that the High Court while remanding the matter to the Trial Court, should have remanded it with liberty to the Trial Court to go either for fresh investigation by the Police or to conduct inquiry itself, which has not been done and only based on the application which was supported by various affidavits filed on behalf of the complainant, cognizance has been taken. It was submitted that the requirement of law is not to take cognizance based only on the affidavits filed on behalf of the complainant.

6. Learned counsel for respondent no.1-State submitted that the Police after due investigation and based on the statement of various witnesses had not found the matter covered under Section 394 of the IPC and thus consciously, Section 394 of the IPC was not included in the charge sheet.

7. Learned counsel for respondent no.2-complainant submitted that the FIR is of the year 2017 and still, it is at the stage of framing of charge which shows that there are dilatory tactics on the part of the accused-appellants. It was further submitted that initially, when the complainant along with her two sons went to the Police Station for lodging FIR, both the sons of the complainant were beaten up and at the intervention of the Superintendent of Police, the FIR was lodged and thus, the investigation besides being one sided and motivated, even materials which had come during investigation, were not fully put up before the Court and this resulted in the Court not taking cognizance under Section 394 of the IPC whereas, the fact is that witnesses had supported the offence which would clearly, fall in the ambit of Section 394 of the IPC.

8. After giving due consideration to the issue at hand, we find that the impugned order needs interference. The Court at the outset, would make it clear that in principle, there is no quarrel to the proposition that the Trial Court is within its powers to alter the charge or to frame alternative charges. Further, the High Court also has the power to direct for fresh consideration. In the present case, we find that the manner in which the exercise has been conducted is not in accordance with law. After the matter being remanded by the High Court, it was incumbent upon the Trial Court to form a satisfaction of its own with regard to applicability of Section 394 of the IPC independently, based on the materials produced either by the complainant or by the defence and from the investigating agency or in the alternative to conduct the inquiry of its own. In the present case, when the allegation was that witnesses had made certain statements before the Police, which was recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short, the "Cr.P.C."), it was the duty of the prosecution to produce all such statements to the Court, which was not done. Then obviously, the Trial Court was required to call upon the Police to produce the entire case diary recording the complete statements of all the witnesses. Thereafter, upon

perusing the same, especially, the portions which had not been forwarded to the Court earlier, the Trial Court could have formed an independent opinion as to whether ingredients of various Sections including Section 394 of the IPC were made out. This has not happened. In fact, only on the basis of affidavits of witnesses filed along with the petition on behalf of the complainant, the Court has taken cognizance under Section 394 of the IPC. We do not approve of such exercise in the manner it has been done.

9. For reasons aforesaid, the order taking cognizance against the appellants is set aside. The matter is remanded to the Trial Court, which is directed to call upon the Police to produce the entire investigation and statements of the witnesses which has been recorded. Further, if the Police has missed out recording the statement of any of the witnesses, the affidavits of the witnesses as furnished by the complainant shall be forwarded to the Police. The Police shall then, carry further investigation and submit a further report to the concerned Court. The same be done within six weeks from today. Based upon that, the Court after hearing all concerned, shall proceed to the stage of taking cognizance and thereafter, framing of charge and proceeding with the trial, as the case may be. We make it clear that we have not expressed any opinion on the merits of the matter.

10. Learned counsel for respondent no.1-State shall communicate to the Superintendent of Police, District Jhansi that investigation should be free, impartial and there should not be any suppression of any material which has come across during the investigation and truthfully, the same shall be placed. We make it clear that the Superintendent of Police, District Jhansi, shall be personally liable if in future, it transpires that any material which has come during investigation, was withheld from the concerned Court.

11. Accordingly, the appeal stands disposed of in the aforementioned terms.

12. Pending application(s), if any, shall also stand disposed of.

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