

HIGH COURT OF JHARKHAND

Bench: Hon'ble Mr. Justice Sanjay Kumar Dwivedi

Date of Decision: 31.10.2023

Cr.M.P. No. 2579 of 2013

1. Rakesh Rajput @ Rakesh
2. Reena Rajput @ Rina ... **Petitioners**

-Versus1.

The State of Jharkhand

2. Anita Singh

... **Opposite Parties**

Legislation:

Section 498-A of the Indian Penal Code (IPC)

Section 41A of the Code of Criminal Procedure (CrPC)

Subject: Quashing of criminal proceedings including the order taking cognizance related to allegations of matrimonial torture against the petitioners who are the brother-in-law and sister-in-law of the complainant, residing in a different city from the place of occurrence.

Headnotes:

Criminal Proceedings – Quashing of proceedings and order taking cognizance – Petitioners seeking to quash the criminal proceedings including the cognizance order dated 14.06.2013 in connection with a complaint case alleging torture – Petitioners are the complainant's relatives residing in a different city from the alleged place of occurrence – Evidence suggesting allegations against petitioners may be fabricated. [Para 2, 4, 7, 13, 14, 16]

Matrimonial Disputes – Misuse of IPC Section 498-A – Observations by the Supreme Court regarding the misuse of legal provisions intended to protect

against cruelty in matrimonial relationships – Guidelines issued for arrest in matrimonial disputes – Consideration of the Supreme Court's perspective on matrimonial skirmishes involving distant relatives. [Para 8, 9, 10, 11, 12]

Judicial Scrutiny – Importance of careful examination of complaints in matrimonial disputes – Supreme Court's advice on treating such complaints as human problems seeking amicable resolution – Caution against automatic implication of relatives in matrimonial crimes without specific allegations. [Para 9, 10, 11, 14, 15]

Justice Delivery – Protection of innocent against unwarranted legal harassment – Observations on the social impact of prolonged criminal trials on matrimonial relationships – Supreme Court's stance on safeguarding the social fabric and ensuring justice. [Para 9, 10, 35, 36]

Legal Analysis – Specific allegations required for criminal proceedings – Dismissal of general and omnibus allegations without specific role attribution – Quashing of proceedings against petitioners to prevent injustice of unwarranted trial. [Para 14, 15, 16]

Decision – Criminal proceedings against petitioners quashed due to lack of specific allegations and evidence indicating potential fabrication of claims – Proceedings against other accused to continue as per law. [Para 16, 17, 18]

Referred Cases:

- Arnesh Kumar v. State of Bihar, reported in [(2014) 8 SCC 273]
- Preeti Gupta v. State of Jharkhand, reported in [(2010) 7 SCC 667]
- Geeta Mehrotra v. State of U.P., reported in [(2012) 10 SCC 741]
- K. Subba Rao v. State of Telangana, reported in [(2018) 14 SCC 452]

Representing Advocates:

- For the Petitioners: Ms. Ashma Khanam, Advocate
- For the State: Mr. Sanjay Kumar Srivastava, A.P.P.
- For Opposite Party No.2: Mr. Soumitra Baroi, Advocate

Judgement

05/31.10.2023 Heard Ms. Ashma Khanam, learned counsel for the petitioners, Mr. Sanjay Kumar Srivastava, learned counsel for the State and Mr. Soumitra Baroi, learned counsel for opposite party no.2.

2. This petition has been filed for quashing of the entire criminal proceedings including the order taking cognizance dated 14.06.2013 passed in connection with C.P. Case No.996 of 2013, pending in the Court of the learned Judicial Magistrate, Dhanbad.

3. The complaint case was filed alleging therein that the marriage of the complainant was solemnized with Sanjeev Kumar on 08.06.1998 at Dhanbad in which several articles and cash were given. It was also alleged that these petitioners had tortured her. When her family visited to Noida, she was assaulted by Surendra Prasad Singh and these petitioners had connived with them. Their wedlock was blessed with two children. It was further alleged by the complainant that on 2nd April, 2013 when she was staying at Flat No.401, Ganesh Apartment, Jarodih, Dhanbad along with her husband Reena Rajput came to her house along with her father and assaulted her and tried to burn her face. It was stated that Reena Rajput is only sister of Sanjeev Kumar and she has very much concern about her brother's career and since the business at Noida has been wind up and she wanted the complainant's father to provide money to her brother in order to start new business.

4. Ms. Ashma Khanam, learned counsel appearing for the petitioners submits that petitioner no.1 is the brother-in-law of the complainant (opposite party no.2) and petitioner no.2 is the sister-in-law of the complainant. She further submits that they are residing at Hyderabad, whereas, the allegation is made that the alleged occurrence took place at Dhanbad. She also submits that the husband of opposite party no.2 has filed a divorce case which is numbered as H.M.A. Petition No.541 of 2013. She further submits that the present complaint case has been filed on 18.04.2013. She submits that so far as these petitioners are concerned, there are only general and omnibus allegations against them. She draws attention of the Court to Annexure-2 and submits that on 01.04.2013, petitioner no.2 was travelling and the allegations are made that on 02.04.2013 torture was made by these petitioners, which falsify the case against the petitioners who happened to be brother-in-law and sister-in-law of the complainant respectively.

5. Mr. Soumitra Baroi, learned counsel for opposite party no.2 submits that there are allegations against these petitioners and in view of that, no case of interference is made out. He further submits that these are questions of fact and that can only be appreciated in the trial.

6. Mr. Sanjay Kumar Srivastava, learned counsel for the State submits that the learned Court has taken cognizance pursuant to complaint petition.

7. In view of the above facts and submissions of the learned counsel for the parties, the Court has gone through the complaint petition as well as the documents brought on record including the order taking cognizance. It is an admitted fact that petitioner no.1 is the brother-in-law of opposite party no.2 and petitioner no.2 is the sister-in-law of opposite party no.2. They are residing at Hyderabad, whereas, the alleged place of occurrence is at Dhanbad. In paragraph 8 of the complaint petition, it has been alleged that on 02.04.2013, the accused came to Dhanbad and tortured the complainant, whereas, Annexure-2 is the document issued by the South Central Railway, which clearly suggest that petitioner no.2 was travelling on 01.04.2013 and three berths were allotted and the name of passengers are disclosed as Rina Rajput, Ananya Rajput and Diksha Rajput which clearly suggest that false statement is made in paragraph 8 of the complaint petition.

8. With the laudable object of punishing cruelty at the hands of husband or his relatives, Section 498-A of the Indian Penal Code was inserted in the statute. There is a phenomenal increase in matrimonial disputes in recent years and it appears that in many cases, the object of Section 498-A of the Indian Penal Code is being misused and the said Section is used as weapon rather than shield by disgruntled wives. The Hon'ble Supreme Court in the case of **Arnesh Kumar v. State of Bihar**, reported in **[(2014) 8 SCC 273]**, certain guidelines have been issued how to arrest a person against whom matrimonial disputes are there.

9. Such type of cases are being filed in the heat of the moment over trivial issues without proper deliberations and this aspect of the matter has been considered by the Hon'ble Supreme Court in the case of **Preeti Gupta v. State of Jharkhand**, reported in **[(2010) 7 SCC 667]**.

Relevant paragraphs of the said judgment read as under:

“**32.** It is a matter of common experience that most of these complaints under Section 498-AIPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of

such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by

the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

10. Little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are falsely implicated by the wives. This aspect of the matter has been considered by the Hon'ble Supreme Court in the case of **Geeta Mehrotra v. State of U.P.**, reported in **[(2012) 10 SCC 741]**.

11. The Hon'ble Supreme Court in the case of **K. Subba Rao v. State of Telangana**, reported in **[(2018) 14 SCC 452]** has observed that the Court should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths.

12. The above line of judgments of the Hon'ble Supreme Court clearly suggest that how Section 498-A of the Indian Penal Code is being misused nowadays.

13. Coming to the facts of the present case, it is crystal clear that what has been alleged in paragraph 8 of the complaint, on that day petitioner no.2 was travelling along with her two children in the train and the allegations are made that she has tortured the complainant at Dhanbad.

14. Further, the role played by these petitioners is not disclosed and there are only general and omnibus allegations against the petitioners. The present complaint case fails to establish specific allegation against these petitioners, who happened to be brother-in-law and sister-in-law of the complainant.

15. In view of the above and considering relevant circumstances and in absence of any specific role attributed to the petitioners, it would be unjust if the petitioners are forced to go through the tribulations of a trial.

16. In view of the above facts, reasons and analysis, so far as these petitioners are concerned, the entire criminal proceedings including the order taking cognizance dated 14.06.2013 passed in connection with C.P. Case No.996 of 2013, pending in the Court of the learned Judicial Magistrate, Dhanbad are quashed.

17. It is made clear that so far as other accused persons are concerned, this Court has not interfered and the learned Court will proceed, in accordance with law.

18. Accordingly, this petition is allowed and disposed of.

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