

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 3184 of 2018

1. Neeraj Kumar Singh
2. Umesh Kumar Singh
3. Shiva Singh

... **Petitioners**

-Versus-

1. The State of Jharkhand
2. Beby Kumari

... **Opposite Parties**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Praveen Shankar Dayal, Advocate
For the State : Mr. Bhola Nath Ojha, A.P.P.
For O.P. No.2 : Mr. Sanjay Kumar Pandey, Advocate

06/16.02.2024 Heard Mr. Praveen Shankar Dayal, learned counsel for the petitioners, Mr. Bhola Nath Ojha, learned counsel for the State and Mr. Sanjay Kumar Pandey, learned counsel for opposite party no.2.

2. This petition has been filed for quashing of the entire criminal proceeding including the order taking cognizance dated 21.03.2018 in Complaint Case No.04 of 2018, pending in the Court of the learned Chief Judicial Magistrate, Garhwa.

3. The complaint case was filed by opposite party no.2 alleging therein that she was married to petitioner no.1 on 22.04.2016 and after some weeks of her marriage, the accused persons started criticizing the gift which were given at the time of marriage. When she objected then petitioner no.1 at the instance of his mother abused and assaulted her. They were demanding Rs.5 Lakhs. The complainant-opposite party no.2 narrated the incidence to her parents whereafter they came to Jamshedpur and on 27.05.2017 paid Rs.1 Lakh to her mother-in-law. It was further alleged that after about one month, again the accused persons started torturing her

mentally and physically for payment of balance amount of Rs.4 Lakhs. On 22.11.2017, the accused persons abused and assaulted her and locked her in a room. They even tried to kill her by pressing her neck. The complainant called her parents and her brother and all went to Sonari Police Station, where, the matter was pacified. It was also alleged that on 22.12.2017, while she was at her sasural, she received notice from Family Court, Jamshedpur in M.T.S. Case No.672 of 2017. Later on, it was found that this case had been lodged by her husband for a decree of divorce. It was alleged that on 31.12.2017 at about 04:00 A.M., the accused persons assaulted her and brought her to Garhwa and left her.

4. Mr. Dayal, learned counsel for the petitioners submits that petitioner no.1 is the husband, petitioner no.2 is the father-in-law and petitioner no.3 is the mother-in-law of opposite party no.2. He further submits that the petitioners are innocent and they have not committed any offence. By way of referring solemn affirmation as well as the complaint petition, he submits that there are general and omnibus allegations against the petitioners. He submits that this is the case of counter blast to the Matrimonial Suit No.672 of 2017, which was filed by petitioner no.1 before the learned Principal Judge, Family Court, Jamshedpur under Section 13(1)(ia) of the Hindu Marriage Act for dissolution of his marriage with opposite party no.2. He further submits that prior to this, petitioner no.1 filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal life, which was compromised later on and, thereafter, both husband and wife were residing together and all of a sudden, opposite party no.2 tortured the petitioners, which lead to the said Matrimonial Suit No.672 of 2017. On

these grounds, he submits that maliciously the present complaint case under Section 498-A of the Indian Penal Code was filed against the petitioners.

5. The said argument is being resisted by Mr. Pandey, learned counsel for opposite party no.2 on the ground that the case is made out. He further submits that there are allegations of torturing opposite party no.2. He also submits that petitioner no.1 has deserted opposite party no.2 in spite of compromise in the petition under Section 9 of the Hindu Marriage Act. He further submits that the petitioners filed complaint case against opposite party no.2 and her family members in the year 2019. On these grounds, he submits that this petition is fit to be rejected.

6. Mr. Ojha, learned counsel for the State submits that the case is arising out of complaint case and the learned Court has rightly taken cognizance against the petitioners.

7. It is an admitted position that petitioner no.1 is the husband of opposite party no.2. Petitioner no.1 has earlier instituted a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal life and after appearance of opposite party no.2, the said matter was compromised and petitioner no.1 took opposite party no.2 along with him and, thereafter, against certain dispute arose between the parties and opposite party no.2 left the company of petitioner no.1.

8. It is further an admitted position that petitioner no.1 has filed Matrimonial Suit No.672 of 2017 in the year 2017 itself. In the complaint petition, receiving of the notice in the said matrimonial suit is disclosed in paragraph 7. The present complaint case was filed on 02.01.2018, which clearly suggests that this complaint case is afterthought of opposite party

no.2, which was in retaliation of the said matrimonial suit.

9. Section 498-A of the Indian Penal Code was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. This Court as well as other Courts including the Hon'ble Supreme Court noticed that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. In this way, such complaints lead to uncalled for harassment not only to the accused but also to the complainant. This was the view of the Hon'ble Supreme Court in the case of ***Rajesh Sharma v. State of U.P.***, reported in ***(2018) 10 SCC 472***.

10. Even in some of the cases, bedridden grandfathers and grandmothers of the husbands, their sisters living in another town are being implicated in the case and this aspect of the matter has been considered by the Hon'ble Supreme Court in the case of ***Arnesh Kumar v. State of Bihar***, reported in ***(2014) 8 SCC 273***.

11. Most of the cases under Section 498-A of the Indian Penal Code are being filed in the heat of the moment over trivial issues without proper deliberations and that was the subject matter before the Hon'ble Supreme Court in the case of ***Preeti Gupta v. State of Jharkhand***, reported in ***(2010) 7 SCC 667***.

12. The family members had been roped into the matrimonial litigation time and again and that 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. Paragraph 21 of the said judgment reads as under:

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in G.V. Rao v. L.H.V. Prasad [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that :

'12. ... There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts.'"

13. In the case of **K. Subba Rao v. State of Telangana**, reported in **(2018) 14 SCC 452**, the Hon'ble Supreme Court observed that the Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.

14. There are line of judgments and some of them, which have been quoted hereinabove, are suffice to decide the present case.

15. The increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused, is under consideration in the

case arising under Section 498-A of the Indian Penal Code.

16. Coming to the facts of the present case. Upon perusal of the contents of the complaint petition, it is revealed that general allegations are levelled against the petitioners. The complainant has alleged that all the accused harrassed her mentally and demanded dowry. None of the petitioners have been attributed any specific role in furtherance of general allegation made against them. It is difficult to ascertain the role played by each accused in furtherance of the offence, which is the subject matter of the present case.

17. Further, the petition under Section 9 of the Hindu Marriage Act was filed by petitioner no.1, which was compromised later on and Matrimonial Suit No.672 of 2017 was thereafter filed by petitioner no.1 and after receiving notice in the said suit, the present complaint case was filed in the year 2018 after almost a year and that fact is admitted in paragraph 7 of the complaint case.

18. In view of the above facts, reasons and analysis and considering that 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 trial on the complaint, where, general and omnibus allegations are made. Accordingly, the entire criminal proceeding including the order taking cognizance dated 21.03.2018 in Complaint Case No.04 of 2018, pending in the Court of the learned Chief Judicial Magistrate, Garhwa are quashed.

19. It is made clear that so far as Matrimonial Suit No.672 of 2017 is concerned, that will be decided in accordance with law without prejudiced to this order as this order has been passed considering the parameters of criminality and Section 482 Cr.P.C.

20. Accordingly, this petition is allowed and disposed of.
21. Pending I.A., if any, is disposed of.

(Sanjay Kumar Dwivedi, J.)

Ajay/ A.F.R.