
(2011) 08 DEL CK 0469
In the Delhi High Court
Case No : Criminal M.C. 2516 of 2011

Alka Mishra and Others

APPELLANT

Vs

NCT of Delhi

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 406, 498A

Citation : (2011) 6 AD 711 : (2011) 184 DLT 560 : (2011) 3 DMC 753

Hon'ble Judges : Mukta Gupta, J

Bench : Single Bench

Advocate : Pradeep Nawani, for the Appellant; Mukesh Gupta, APP for State and Adithi Lilly and Krishan Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Mukta Gupta, J.—By this petition the Petitioner seeks quashing of FIR No. 119/2010 u/s 498A/406/34 IPC registered at PS Crime Women Cell on the ground that there is no allegation against the Petitioners, that the FIR has been registered belatedly and the Petitioners were living separately at a distant place.

2. The allegations as set out in the FIR are that on the demand of Complainant's in laws her parents, father, mother and brother and other relatives incurred an expenditure of Rs. 20 lakhs. During the marriage not only jewellery items were given but a demand draft of Rs. 75,000/- was also given besides other articles and cash. Despite having fulfilled the demands her mother in law and her jaithani i.e. Petitioners No. 4 and 1 herein taunted her for bringing less dowry articles in the presence of relatives. On the same day, that is, on 4th February, 2007 the complainant's husband, father-in-law, mother-in-law took all the jewellery, sarees and clothes in their possession saying that "you will live with your husband at Pune and we have taken all the istridhan articles from our all son's wives and we will secure it in the locker."

3. In Kanpur, the mother in law of the Complainant used to taunt her and

humiliate her on small pretext and miserably harass her physically and mentally asking for her earnings. The mother-in-law of the Complainant even taunted her and tortured her by different names and used to instigate the husband. The in-laws even pressured to abort her and on the instigation of the sister in law the complainant was beaten and mal treated. Complainant's father brought her to Delhi and got her medical treatment done. But after some time she was taken back to Kanpur and there she was harassed and taunted again. She came back to Delhi with her brother-in-law. It is alleged that when her husband left for Landon, her mother-in-law and father-in-law used to demand Rs. 3 lacs from her and a flat to be purchased in the name of the complainant's husband. After coming back from London the Complainant's husband brought his mother from Kanpur to Delhi and harassment continued thereafter. The husband of the Complainant slapped her and abused her with filthy language. There was a demand of flat on the pretext that her father had purchased flat for himself and not for the husband. Even the gifts given at the mundane ceremony were not liked by the in-laws and they abused her. The mother-in-law even went to the extent of throwing the five months child of the Complainant on the floor resulting in grievous injuries. It is further alleged that her husband and in-laws continued to harass her and demanded flat in Delhi. Her brother in law told on telephone that she should not mind beating by the males and she should tell her father to purchase a flat in her husband's name so that he does not harass the Complainant. Finally her husband took away all the articles and threw out all the belongings of the Complainant and her son in the guard room and threatened her that in case she enters the house or tries to take legal action against him he will cut her legs and threatened to kill her father and brother. The complainant has further alleged that false complaints were made by her husband to the University to harass her and not let her complete her PhD. Father-in-law of complainant threatened her to implicate her in false cases.

4. A perusal of the FIR prima facie reveals allegations of continuous harassment. The FIR on the face of it discloses the commission of cognizable offences and hence at this stage merely because it was registered belatedly or it does not disclose allegations against some of the Petitioners it cannot be said that no case of proceedings in the FIR is made out.

5. The Petitioners have not been arrayed specifically as accused in the FIR as in column No. 7 the name of Rajiv Mishra and others is mentioned. Merely because the complainant has mentioned the name of the Petitioners as accused, the Petitioners would not become accused. The Petitioners can be treated as accused only if allegations are made out against them. Needless to say that it is for the investigating agency to investigate the matter and find out the role of each accused before filing charge sheet. In case allegations are not made out against any of the Petitioners, no charge sheet qua the said Petitioner/Petitioners would be filed. At this stage I find no ground to quash the FIR and stall the investigation.

6. Petition and application are dismissed.