
(2007) 04 CHH CK 0013

In the Chhattisgarh High Court

Case No : Cr.M.P. (PR) No. 5590 of 2006 and Cri.M.P. No. 141 of 2007

Alok Kumar Dubey and Others

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 18-04-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 304B, 34, 498A

Citation : (2007) 2 CGLJ 319

Hon'ble Judges : Sunil Kumar Sinha, J

Bench : Division Bench

Advocate : P. Diwakar and K.K. Gupta, for the Appellant; G.K. Beriwal, Dy. A.G., for the Respondent

Judgement

Sunil Kumar Sinha, J.—Heard. Office has raised certain defaults. The defaults are formal. The same are condoned. Heard on admission.

2. This petition is directed against the order dated 1st December, 2006, passed in Criminal Revision No. 343/2006 by the 3rd Additional Sessions Judge, Bilaspur (CG), whereby the learned A.S.J., while dismissing the revision of the Petitioners, has confirmed the order dated 21.9.2006, passed by the Judicial Magistrate First Class, Bilaspur in Criminal Case No. 432/2006, by which, the said Court had framed charges u/s 498-A/34 IPC against all the Petitioners.

3. The brief facts are that on a First Information Report, lodged by the complainant namely Smt. Vinti Dubey, who is the wife of Alok Kumar Dubey (Petitioner No. 1. herein), an offence u/s 498-A/34 IPC was registered against the Petitioners, who are the husband and relatives of the husband. After due enquiry, a charge sheet was filed and the concerned Magistrate framed the charges under the aforesaid Sections of IPC, which was challenged by the Petitioners in a Revision before the Sessions Court and it was dismissed by the said Court.

4. Learned Counsel for the Petitioners argues that prima facie there does not appear to be any material against Petitioners No. 2 to 5, therefore, they should be discharged. He also argues that there was no prima facie material even against Petitioner No. 1 and the charges framed against him are also not sustainable. His submission is that the trial Court as well as the revisional Court erred in law in framing the charges u/s 498-A/34 IPC against all the Petitioners, which should be interfered by this Court.

5. I have heard learned Counsel for the Petitioners and have also perused the copy of charge sheet.

6. The copy of the FIR dated 21.6.2005 has been filed at page No. 55 of the paper book. A perusal of the aforesaid report would show that the complainant had made allegations against all the Petitioners and she had categorically stated as to how the Petitioners were treating her with cruelty after her marriage with the Petitioner No. 1. The relevant paragraph of the FIR is quoted as under:

7. In the matter of Pawan Kumar and Others Vs. State of Haryana, , the Apex Court observed that the "cruelty" or "harassment" need not be physical. Even mental torture in a given case would be a case of cruelty and harassment within the meaning of Sections 304-B and 498-A IPC. Explanation (a) to Section 498-A itself refers to both mental and physical cruelty. It further observed that again willful conduct means, conduct willfully done; this may be inferred by direct or indirect evidence which could be construed to be such. A girl dreams of great days ahead with hopes and aspirations when entering into a marriage, and if from the very next day the husband starts taunting her for not bringing dowry and calling her ugly, there cannot be greater mental torture, harassment or cruelty for bride.

8. In case of Gananath Pattnaik Vs. State of Orissa, , the Apex Court further held that, the concept of cruelty and its effect varies from individual to individual, also depending upon the social and economic status to which such person belongs. "Cruelty" for the purposes of constituting the offence under the aforesaid Section need not be physical. Even mental torture or abnormal behavior may amount to cruelty and harassment in a given case.

9. The Apex Court also held in the matter of Mohd. Hoshan and Another Vs. State of A.P., that the impact of the complaints, accusations or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the individual victim concerned, the social background, the environment, education etc. Further mental cruelty varies from person to person depending on the intensity of sensitivity and the degree of courage or endurance to withstand such mental cruelty.

10. If we examine the contents of the FIR and also the statement of the complainant as well as other witness of the complainant, it would appear that there is prima facie evidence regarding cruelty as is alleged by the complainant in the FIR and the trial Court was justified in framing the charges u/s 498-A/34

IPC.

11. There is no illegality in the orders passed by the 2 courts below, warranting interference by this Court u/s 482 Code of Criminal Procedure The petition has no merit and the same is dismissed at the motion stage itself.

12. However, it is made clear that this Court has not expressed any view on merits of the case and the observations made by this Court are only restricted to framing of charges and not more than that.