

(2007) 04 AHC CK 0312
In the Allahabad High Court
Case No : Criminal M.A. No. 1240 of 1999

Anil Sharma and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 06-04-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 224, 498A, 506

Citation : (2007) 3 ACR 2772

Hon'ble Judges : Barkat Ali Zaidi, J

Bench : Single Bench

Advocate : Sahab Tiwari and Saurabh Tiwari, for the Appellant; M.B. Singh, R.S. Maurya and A.G.A., for the Respondent

Judgement

Barkat Ali Zaidi, J.—According to the prosecution version, opposite party No. 3 informant Smt. Mamta Sharma was married to applicant No. 1 Anil Sharma of Ajmer on 3.3.1995 and she was cordially treated for about two and a half month by her husband and in-laws. Thereafter, she came to Agra to her parents from where on her return to her in-laws as alleged, she found her husband and in-laws quite indifferent to her, they raised demands of cash of Rs. 50,000, a T.V., a V.C.R. and a Scooter from her and started coercing her to fulfil their demands. Her husband, his mother Bhagwan Devi applicant No. 6, brothers applicant Nos. 3, 4, 5 and 2 Shiv Dutt, Suresh , Rajendra and Shiv Nath, applicant Nos. 7, 8 and 9 Anita Vinita and Sunita, wives of Shiv Dutt, Suresh and Rajendra respectively and husband's sister applicant No. 11 Tulsi Devi and her husband applicant No. 10 Luxmi Narain used to beat and harass her. It is also alleged that on 8.2.1997, all the accused made an abortive bid to kill her by sprinkling oil. Thereafter, they all turned her out from their house. One Sri Mahesh Chandra Goel of Ajmer, one of the friends of the father of the complainant sent her by bus to Agra. Her parents alongwith other relatives, thereafter, went to Ajmer to her husband and in-laws to persuade them but in vain.

2. It is said that on 8.3.1998, all the accused came to the house of the complainant at Agra at 7 O'clock in the morning and asked the father of the complainant to fulfil their demands so they could take the complainant, which led to a tussle between the accused and her father. The wives of her husband's elder brothers bit her by the tooth and all the accused beat the complainant. She was rescued by mohallawalas. She was taken to District Hospital, Agra, where she was examined on her injuries, and thereafter she lodged a first information report of the incident on 8.3.1998 at Police Station Rakabganj, Agra. The police investigated the case and in the result of investigation the police (Criminal Case No. 17 of 1998) filed a charge-sheet under Sections 498A, 224 and 506, I.P.C. before Special Chief Judicial Magistrate, Agra, who ordered issuance of summons against the applicants.

3. That is how the applicants have come to this Court u/s 482, Cr. P.C. for termination of proceedings pending against them.

4. I have heard Sri Sahab Tiwari, advocate for the applicants, Sri M. B. Singh, advocate for the opposite party No. 3 Smt. Mamta Sharma and Sri R.S. Maurya, Additional Government Advocate for the State.

5. The sequence of facts and circumstances as disclosed above, furnishes an inescapable impression that the incident is said to have taken place at Agra, has been introduced only with a view to sue the applicants at the complainant's place in Agra. If we exclude this incident of marpit, which is said to have taken place at the house of the wife at Agra, the jurisdiction would otherwise, lie at Ajmer because the wife was subjected to cruelty and dowry demand at Ajmer, as has been clearly alleged, in the first information report.

6. It is obvious and apparent in the circumstances, that the incident at the house of wife at Agra is fictitious, because, it is not comprehensible that other members of the in-laws family will travel down from Ajmer to Agra and indulge in fisticuffs and physical assault. The obvious purpose for introducing this incident is to provide jurisdiction to the Agra Court.

7. The counsel for the complainant referred to the injury report, which furnishes prima facie evidence about the occurrence having taken place and about the wife having given a beating. The injury report by the Medical Officer, District Hospital, Agra, mentions the following injuries:

- (1) Traumatic swelling 4 cm. x 3 cm. right side head, 8 cm. above right ear.
- (2) Right contused Traumatic swelling 4 cm. x 2 cm. above right shoulder.
- (3) Multiple red abraded contusion 3 cm. x 3 cm. front of right forearm in middle.
- (4) Red contusion 3 cm. x 3.5 cm. left thigh upper part.
- (5) Complaint of pain front and back of chest.

8. It will appear that all these injuries are of simple in nature, and in these

circumstances arising in the case, mere existence of such simple injuries on the person of the wife, cannot be considered sufficient evidence for furnishing an inference, that the incident of this nature alleged by the information wife, took place at her house.

9. The whole story about the aforesaid incident of physical assault having taken place at the house of wife at Agra is, in the circumstances, manifestly forged and fabricated, and, as mentioned above, has been introduced with an intention to provide jurisdiction to Agra Court.

10. There is also on record copy of the certificate of the railway authority that the applicant No. 1 husband was on duty on the day when the aforesaid occurrence is said to have taken place at the house of the wife at Agra.

11. It may also be mentioned that the introduction of 10 other persons besides the husband in the first information report, is itself indicative of an intention on the part of the wife, to exert pressure on the husband, with a view to subjugate him. It is difficult to visualise so many persons being involved in harassing the wife and they seem to have been implicated with the aforesaid ulterior motive.

12. The Supreme Court has itself warned on the tendency on behalf of married lady in case of dowry demand to implicate other in-laws unnecessarily, only with a view to coerce the husband into submission. Reference may be made in this case to the case of *Sushil Kumar Sharma v. Union of India and others*, 2005 SCC 1473: 2005 (2) ACR 2070 (SC).

13. It becomes, therefore, clear that the wife has no qualms in implicating innocent persons and introducing false episode.

14. Since it has been held that no such incident of physical assault is likely to have taken place at Agra, the Courts at Agra will have no jurisdiction to deal with the case and jurisdiction will lie in the Court at Ajmer.

15. In the result, petition is allowed and the proceedings in Criminal Case No. 17 of 1998 under Sections 498A, 224 and 506, I.P.C., pending in the Court of Special Chief Judicial Magistrate, Agra, are terminated.