
(2016) 11 JH CK 0138
In the Jharkhand High Court
Case No : Cr.M.P No. 139 of 2016

Archana Rana Alias Deepa Sharma

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 22-11-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, Section 4
Penal Code, 1860 (IPC) — Section 323, Section 498A

Citation : (2017) 1 ECrC 435 : (2017) 1 JLJR 29

Hon'ble Judges : Mr. Ananda Sen, J.

Bench : Single Bench

Advocate : Mr. Sanjay Kumar Pandey-2, A.P.P, for the State; Mr. Lalit Yadav, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Ananda Sen, J. - In this petition, filed under Section 482 Cr.P.C., the petitioner has challenged the order dated 24.11.2015 passed by the learned Sessions Judge, Jamtara, in Cr. Revision No. 34/2015, filed by Opp. Parties Nos. 2 and 3, whereby, the learned court has set aside the order dated 18.6.2015, passed by the learned Chief Judicial Magistrate, Jamtara, by which, the summons were issued to the petitioners (Opposite party Nos. 2 and 3) finding that, prima facie, case was made out against them.

2. A complaint was filed, which was registered as Complaint Case No. 702/2013 for the alleged offence under Sections 384, 498A, 323, 109 and 34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, at the instance of Archana Rana. The said complaint was against the seven persons. The complaint was referred to the Officer Incharge, Jamtara Police Station, for investigation in terms of Section 156(3) Cr.P.C. After investigation, the police submitted the charge-sheet against all persons. On receipt of the charge-sheet, the learned Chief Judicial Magistrate, Jamtara, vide order dated 18.6.2015 took cognizance for the

offence under Sections 323 and 498A IPC and Section 3/4 of the Dowry Prohibition Act.

3. Aggrieved by the said order, Bandana Sharma @ Guria and Archana Kumari Sharma @ Sony, preferred Criminal Revision being Criminal Revision No. 34/2015 before the learned Sessions Judge, Jamtara. Those two petitioners, of the Criminal Revision, challenged the order on the ground that they are the sisters-in-law and there is nothing in the case diary to issue summons against them. Their further case was that no witnesses, during investigation, had come forward to depose any specific overt act against those two petitioners.

4. The learned Sessions Judge, after hearing the parties and going through the entire record, allowed the Revision Petition by order dated 24.11.2015 by setting aside the order dated 18.6.2015, so far as it relates to Bandana Sharma @ Guria and Archana Kumari Sharma @ Sony.

5. Aggrieved by the said order dated 24.11.2015, the complainant/petitioner has preferred the instant petition under Section 482 of the Code of Criminal Procedure.

6. I have heard the counsel for the complainant at length. The counsel for the complainant submits that the learned Revisional Court has committed gave illegality by allowing the revision petition. He further submits that from the complaint petition itself, it is clear that the allegation are made out against the opposite party Nos. 2 and 3 so, summons were issued against them. He also submits that the learned Chief Judicial Magistrate, Jamtara, had correctly issued the summons against the present opposite party Nos. 2 and 3, and thus, the learned Revisional Court could not have passed the impugned order.

7. After going through the record and hearing the counsel appearing for the petitioner as well as the State, it is undisputed that opposite party No. 2- Bandana Sharma @ Guria is a married sister-in-law of the complainant. I also find that the learned Sessions Judge, Jamtara, has mentioned in the impugned order that the police, in the charge-sheet, has clearly mentioned that opposite party No. 2- Bandana Sharma @ Guria is a married sister-in-law and residing in her matrimonial home. Further, it is also mentioned in the impugned order that opposite party No. 3- Archana Kumari Sharma @ Sony was residing outside her house, as she was pursuing her study. The learned Sessions Judge, Jamtara, has also taken note at Paragraph 32, 38, 39, 40, 59 and 60 of the case diary and after going through the same, came to a finding that the witnesses have not deposed anything regarding involvement of these two opposite parties, rather, have stated that Bandana Sharma @ Guria is residing in her matrimonial home and Archana Kumari Sharma @ Sony was residing outside, as she is pursuing her study before the marriage of the complainant had taken place. Further, after going through the complaint petition, I find that there is no specific allegation against these two opposite parties and all the allegations against them are general in nature.

8. The Hon''ble Supreme Court in the case of Preeti Gupta and another v. State of Jharkhand and Anr. reported in (2010)7 SCC 667 has held that the allegations against the husband''s relatives are to be scrutinized with great care and circumspection. It has further been held at paragraph nos. 34 and 35 of the said judgment, which reads as under:

"34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized 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 complainant are required to be scrutinized with great care and circumspection."

9. Admittedly, opposite party No. 2-Bandana Sharma @ Guria, a married sister-in-law residing with her in-laws and opposite party No. 3-Archana Kumari Sharma @ Sony are residing out side, as it appears from the impugned order. Further there is no specific allegation against them. Thus, relying upon the judgment of the Hon''ble Supreme Court, as referred above, I find that the learned Revisional Court has committed no illegality in passing the order impugned. Thus, I find no ground to entertain the instant petition.

10. Accordingly, this Petition stands dismissed.