
(2014) 05 JH CK 0002
In the Jharkhand High Court
Case No : Cr. Revision No. 879 of 2012

Brajesh Kumar Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 02-05-2014

Acts Referred:

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

Citation : (2014) 3 JLJR 64

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : Ananda Sen, Advocate for the Appellant; Pramod Kumar, Advocate for the Respondent

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioners, learned A.P.P. for the State as also learned counsel for the complainant O.P. No. 2. The petitioners are aggrieved by the order dated 4.8.2012 passed by Sri Taufique Ahmed, learned Judicial Magistrate, 1st Class, Jamshedpur, in Complaint Case No. 304 of 2009, whereby the application filed by the petitioners for discharge has been rejected by the Court below, finding that there are sufficient material against the petitioners for framing the charge under Section 498A of the Indian Penal Code.

2. Complaint Case No. 304 of 2009 was filed by the complainant-OP. No. 2 before the learned Chief Judicial Magistrate, Jamshedpur, making allegations of cruelty and torture for demand of dowry against the petitioners, who are husband, brother-in-law, father-in-law, mother-in-law and sister-in-law of the complainant. Though, there are allegations against all of them, in paragraph-9 of the complaint petition, it is stated that all the matters were mutually settled in the presence of all the family members of the complainant and the accused, and the complainant was again taken to her in-laws place. It is alleged that on 20.5.2007, the husband, brother-in-law, father-in-law and mother-in-law of the

complainant tried to kill the complainant by cooking gas, giving the occurrence a look of accident, but the complainant learnt about their plan and fled away.

3. It appears that the statement of the complainant was recorded on solemn affirmation, and some witnesses were examined by the complainant before charge, who supported the complainant's case. Thereafter, the petitioners filed the application for discharge, which was rejected by the Court below, stating that there are materials against these petitioners for framing the charge under Section 498A of the Indian Penal Code.

4. Learned counsel for the petitioners has submitted that the impugned order, passed by the Court below is absolutely illegal, inasmuch as, from the complaint petition. It would appear that all the disputes were mutually settled and there is allegation of only a plan to attempt to kill the complainant on 20.5.2007. It is submitted that there is no allegation against the petitioner No. 5 Nutan, who is the married sister-in-law of the complainant and on the said date, she was in her in-laws place, but still she has been falsely implicated in the case. Similarly, it is submitted that the petitioner No. 3, Sunil Singh, who is the brother-in-law of the complainant has also been falsely implicated in this case only with omnibus and vague allegations and similarly the other petitioners have also been falsely implicated in this case, due to a matrimonial suit, filed by petitioner No. 1, who is the husband of the complainant, for restitution of the conjugal rights, which has been decreed in favour of the husband. Learned counsel has accordingly, submitted that the impugned order, passed by the learned Court below cannot be sustained in the eyes of law.

5. Learned counsel for the State as also learned counsel for the complainant O.P. No. 2 have submitted that there are specific allegations against all the accused persons in the complaint petition, which have been supported by the complainant and the witnesses examined before charge and accordingly, there is no illegality in the impugned order.

6. Having heard learned counsels for both the sides and upon going through the impugned order, I find that though, there is allegation against all the accused persons of cruelty and torture for demand of dowry, including the brother-in-law and the married sister-in-law of the complainant, but from perusal of the complaint petition, it appears that the entire matter was mutually settled. Thereafter, there is allegation against all the accused persons that they were planning to kill the complainant by cooking gas, but this allegation is not against the sister-in-law. Though, the allegation has also been made against the brother-in-law, but the fact remains that there was only a plan and the complainant learnt about their plan and fled away. Though there is allegation against the husband, mother-in-law and father-in-law of the complainant for subjecting the complainant to cruelty and torture for demand of dowry, but the sister-in-law and brother-in-law of the complainant have been implicated in the complaint only with vague and omnibus allegations.

7. In the facts of this case, I am of the considered view that the case of the petitioners Sunil Singh and Nutan, who are the brother-in-law and the married sister-in-law of the complainant, is fully covered by the Judgment of Hon"ble the Supreme Court, in the case of Preeti Gupta and Another Vs. State of Jharkhand and Another, , wherein it has been held as follows:--

"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 scrutinised with great care and circumspection."

8. In the facts of this case, I am of the considered view that it is a fit case for exercise of the inherent power of the Court under Section 482 of the Cr.P.C. for quashing the proceeding against the petitioners Sunil Singh and Nutan, who are the brother-in-law and the married sister-in-law of the complainant, and against whom there are only vague and omnibus allegations.

9. In view of the aforementioned discussions, the impugned order dated 4.8.2012 passed by Sri Taufique Ahmed, learned Judicial Magistrate, 1st Class, Jamshedpur, in Complaint Case No. 304 of 2009, so far it relates to the petitioners Sunil Singh and Nutan, are hereby set aside and the proceeding against them is hereby, quashed in exercise of the inherent power of the Court under Section 482 of the Cr.P.C. This application, so far as other petitioners are concerned, stands dismissed. This revision application is, accordingly, allowed in part.