
(2008) 07 AHC CK 0052
In the Allahabad High Court

Deepak Joshi alias Dippu and Others	APPELLANT
Vs	
State of U.P. and Smt. Monu Sharma alias Prachi	RESPONDENT

Date of Decision : 30-07-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156, 177, 179, 190, 200
Dowry Prohibition Act, 1961 — Section 4
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 304B, 406, 498A

Citation : (2008) 07 AHC CK 0052

Hon'ble Judges : Arvind K. Tripathi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arvind K. Tripathi, J.

Heard learned Counsel for the applicants, learned Counsel for the opposite party No. 2 and learned AGA.

1. This Criminal Misc. Application u/s 482 Cr.P.C. has been filed for quashing of the Complaint No. 2819 of 07 (Monu Sharma v. Deepak Joshi and Ors. u/s 498A, 406 I.P.C. and 4 D.P. Act.

2. The brief facts of the case are that the applicant No. 1 was married with opposite party No. 2 on 26.1.2000 and from this wedlock a female child was born. In the year 2005 she left her matrimonial house and started living with her father at Robertsganj, District Sonbhadra, U.P. An application with mutual consent u/s 13-B of the Hindu Marriage Act was presented by the applicant No. 1 Deepak and opposite party No. 2 Smt. Monu Sharma alias Prachi, on 16.10.2006 and the statement was recorded on 18.10.2006. She has also accepted that she received dowry articles, Stridhan and lump sum amount for a permanent alimony. The divorce petition was adjourned fixing 23.4.2007, after statutory period of six months. However on 23.4.2007 the opposite party No. 2 Smt. Monu Sharma alias Prachi filed an application with the allegation that she was brought to the

court on 18.10.2006 by misrepresentation that she would get job after divorce and under pressure she gave incorrect statement. She further submitted that under misrepresentation of the applicant No. 1 her signature was obtained and neither dowry articles was returned or anything was paid on account of maintenance. In the complaint mere is general allegation of demand of dowry and torture. As per allegation there was demand of dowry on telephone also, while she was with father at Robertsganj. Further there was allegation against sister-in-law Seema that she used to mix a white powder in her foods, due to which her health was gradually deteriorated. She also alleged that her husband was seen by her while sleeping on the same bed with her jethani Smt. Seema and further Smt. Seema threatened to sign on the papers otherwise her daughter would be killed. According to her she never agreed to get divorce by mutual consent. After the aforesaid application the suit for divorce filed u/s 13-B of the Hindu Marriage Act was dismissed by the District Court, Narnaul on 3.10.2007. An application was moved by opposite party No. 2 u/s 156(3) Cr.P.C. in the court of Chief Judicial Magistrate, Sonbadhra on 08.2.2007 for registration of the First Information Report and investigation of the case on 8.2.2007. On the aforesaid application the learned Chief Judicial Magistrate proceeded as a complaint case after recording the statement u/s 200/202 Cr.P.C. and summoned the applicants u/s 498A & 406 I.P.C. and Section 4 of the D.P. Act by order dated 11.4.2007 fixing 8.6.2007. Thereafter the non bailable warrants were issued on 7.9.2007 On the present petition u/s 482 Cr.P.C. notices were issued on 3.1.2008 and the proceedings pending in the court of Chief Judicial Magistrate was stayed.

3. On 05.3.2008 learned Counsel for the complainant informed that opposite party No. 2 was prepared that the matter might be sent for Mediation. Hence, by order dated 05.3.2008 the matter was referred to the Mediation Centre High Court, Allahabad. The applicant handed over a Bank draft of Rs. 4000/- to opposite party No. 2 in compliance of the order dated 05.3.2008. However, as per report dated 25.3.2008 Mediation failed and as such now the matter has to be decided on merit.

4. Learned Counsel for the applicant submitted that the marriage was solemnised without any dowry. Opposite party No. 2 was a fashionable lady and just after her marriage she started insisting that the applicant No. 1 should leave his parental house and to live separately along with her father at Robertsganj. When it was refused, she started harassing the entire family members. He further submitted that she left her matrimonial house in the year 2005 without any reason and started living along with her father at Robertsganj. Though the applicant tried his best to call back and keep opposite party No. 2 along with him at his parental house but she never turned up. Thereafter, by a mutual consent a joint divorce petition was filed before the court of District Narnaul u/s 13-B of the Hindu Marriage Act, which was registered as complaint case No. 98/06 on 16.10.2006 and on 18.10.2006 her statement was recorded. According to the applicant, all the dowry articles Stridhan were handed over to her which she had admitted in the statement that she had received all the articles and stridhan as

well as lump sum amount as a permanent alimony.

5. He further submitted that subsequently she changed her mind and dishonestly, she moved another application before the court at District Narnaul to the effect that no dowry articles or stridhan was handed over to her and no lump sum amount for alimony was paid. After the aforesaid application suit for divorce was dismissed and against the order of dismissal dated 3.10.2007 passed by the District Court Narnaul, the applicant preferred an appeal before the Punjab and Haryana High Court, Chandigarh which is still pending. An application u/s 156(3) Cr.P.C. Was filed just to harass the applicant No. 1 and his entire family on vague allegation without giving specific dates.

6. The counsel for the applicant has challenged the proceeding of the complaint case No. 2819/07 on the following grounds:

1) The complaint has been filed with vague allegation without disclosing dates. Even if the allegation made in the complaint is treated to be correct for the sake of the argument, prima facie the offence would be disclosed only against the applicant No. 1 husband and sister-in-law (Jethani) applicant No. 8.

2) The complaint was filed with a mala fide intention though divorce petition was filed with mutual consent.

3) The court at Sonbhadra has no jurisdiction

4) Delay in filing the complaint

5) The injury report is not reliable

7. In support of the point No. 1 learned Counsel for the application submitted that from going through the application filed u/s 156(3) Cr.P.C. it is clear that the allegations are vague. No date has been mentioned when she left the house and what are the dates or months when she was physically or mentally tortured. He also submitted that applicant No. 4-9 are living separately and they are not concerned with the demand of dowry or alleged mental or physically torture. The applicant No. 4 Dinesh and his wife Smt. Santosh applicant No. 7 are living at village thanwas. Dr. Kamesh, applicant No. 5 and his wife Seema Joshi, applicant No. 8 are residing at Jaipur in the State of Rajasthan. Mukesh applicant No. 6 and his wife applicant No. 9 Rekha Joshi are resident at village and Post Baroth District Alwar, State of Rajasthan. There is no specific reply in counter affidavit.

8. He further submitted that there is no specific allegation against the applicant Nos. 2, 3, 4, 5, 6, 7, and 9. The case is totally raise. There was neither demand of dowry nor there was any menia or physical torture out since opposite party No. 2 was not inclined to live with the applicant No. 1, hence she herself agreed for dissolution of the marriage and an application was filed with her consent. He submitted that the application has open moved u/s 156(3) Cr.P.C. with a malafide mention because after filing divorce petition with ulterior motive she has changed her decision. On the basis of the false allegations she filed an application to the

effect that her signature and statement was obtained under pressure and by fraud. If the statement was recorded and there was any pressure immediately thereafter the complaint should have been made but she waited for about six months.

9. In support of the submissions learned Counsel for the applicants relied the Judgment of this High Court reported in (LX) 2008 ACC 123 *Najir and Ors. v. State of U.P. and Anr.*, in which there was no specific allegation against unmarried Nanad and Dever, hence, application was allowed in part and the summoning order and the proceedings was quashed in respect of them.

10. The applicant also relied the Judgment passed by the Apex Court in the case of *Ramesh and Ors. v. State of T.N.* 2005 (SCC) 735. On the point that there was no specific allegation against one of the accused. He also relied the aforesaid case on the points of territorial jurisdiction. In the aforesaid case, no offence was made out against the appellant Gowri Ramaswamy, who was married sister of the informant's husband and was living at Delhi with her family. Though on the relevant time, she stayed at Mumbai for some days. When the informant was living in Mumbai there was allegation of certain act of taunting and ill-treatment of the informant by her sister-in-law. They did not pertain to dowry demand or entrustment and misappropriation of the property belonging to the informant. The allegation was that on some occasion she directed the complainant for washing and she used to abuse her and used to pass remarks such as "even if you have got much jewellery, you are our slaves" It is also stated in the report that Gowri Ramaswamy would make wrong imputation to provoke her husband and would warn her that no body could do anything to her family.

11. In view of the aforesaid facts the Apex Court held that these allegations even if true did not amount to harassment with a view to coerce the informant and her relation to meet unlawful demand for any property or valuable security. At the most the allegations reveal that her sister-in-law Gowri Ramaswamy was insulting and making derogatory remarks and behaving rudely, hence the appeal was allowed and the proceedings was quashed by the Apex Court in respect of the appellant Gowri Ramaswamy.

12. With regard to the territorial jurisdiction of the court at Trichy, it was held by the Apex Court that looking at the complaint at its face value, the offences, alleged could not be said to have been committed wholly or partly within the local jurisdiction of the learned Magistrate Court at Trichy. Almost all the allegations pertain to the act of the cruelty for the purposes of the extracting additional property as dowry while she was in the matrimonial home at the Mumbai.

In the view we are taking, it is not necessary for us to delve into the question of territorial jurisdiction of the Court at Trichy in detail. Suffice it to say that on looking at the complaint at its face value, the offences alleged cannot be said to have been committed wholly or partly within the local jurisdiction of the

Magistrate's Court at Trichy. Prima Facie, none of the ingredients constituting the offence can be said to have occurred within the local jurisdiction of that court. Almost all the allegations pertain to acts of cruelty for the purpose of extracting additional property as dowry while she was in the matrimonial home at Mumbai and the alleged acts of misappropriation of her movable property at Mumbai. However, there is one allegation relevant to Section 498-A from which it could be inferred that one of the acts giving rise to the offence under the said Section had taken place in Chennai. It is alleged that when the relations of the informant met her in-laws at a hotel in Chennai where they were staying on 13-10-1998, there was again a demand for dowry and a threat to torture her in case she was sent back to Mumbai without the money and articles demanded.

Thus the alleged acts which according to the petitioner constitute the offences u/s 498-A, and 406 I.P.C. were done by the accused mostly in Mumbai and partly in Chennai, Prima facie, there is nothing in the entire complaint which goes to show that any acts constituting the alleged offences were at all committed at Trichy.

13. Since prima facie, there was nothing to show that any acts constituted the alleged offence were at all committed at Trichy. Hence in the aforesaid case it was held by the Apex Court that the local court at Trichy has no territorial jurisdiction.

14. With regard to the demand of dowry learned Counsel for the applicants submitted that opposite party No. 2 left matrimonial house in the year 2005. However, the application u/s 156(3) Cr.P.C. was filed on 8.2.2007 before the court of Chief Judicial Magistrate, Sonbhadra, hence there was delay for filing the complaint.

15. With regard to the injury report, learned Counsel for the applicants submitted that injury report filed as annexure-1 to the counter affidavit, shows that the doctor has reported the duration about 10 days old. Opposite party No. 2 was medically examined on 28.10.2006 and in the report it has been mentioned that the injuries were blackish, discolouration, hence if the injuries were ten days old it will not be correct. As per expert opinion mentioned in medical jurisprudence. "The age of the injury can be ascertained from the colour changes, which commence from 18 to 24 hours after its infliction. These colour changes are due to the disintegration of the red blood cells and staining of the haemoglobin set free by the action of the enzymes from tissue. They commence at the periphery and extent inwards to the centre. They are read at first, but during the next three days they appear blue, bluish-black, brown or livid red, and become greenish from 5th to 6th, days and yellow from 7th to 12th days. This yellow colours slowly fades in tint till 14th or 15th day when the skin regains its normal appearance. However, disappearance of the colour is more rapid in healthy person than in sick and old people with feeble circulation. It also depends on the nature of the violence, If there is slight force colour will disappear in about a week or two while an extensive one caused by considerable force will disappear

in about 3 to 4 weeks."

16. He further submitted that even in the complaint no specific allegation has been mentioned when the injuries were caused and if the injury report is to be believed there was no burn injury reported specially with regard to the burn injury on palm of opposite party No. 2 because there was allegation that her palm was put at hot "Tawa" and the applicant No. 8 pushed her towards fire.

17. As far as injury report is concerned that is mere opinion and is not binding. The charges will be decided considering entire evidence.

18. Learned Counsel for the opposite party No. 2 submitted that from a perusal of the application it is clear that there was allegation against all the applicants. With regard to the torture and demand of dowry hence prima facie offence is disposed against all the applicants.

19. With regard to the malafide intention he submitted that the allegation is vague and without support of any evidence. In fact when by committing fraud and under pressure the signature was obtained for dissolution of marriage then, within the statutory period of six months an application was moved before the court at Narnaul and accordingly the suit for divorce filed u/s 13B of the Hindu Marriage Act was rejected.

20. With regard to the territorial jurisdiction, learned Counsel for the opposite party No. 2 contended that the offence under Sections 498A and 406 I.P.C. and Section 4 D.P. Act, PS. Robertsganj. District Sonbhadra was a continuing offence and due to mental and physical torture she was forced to live at her parental house. The local court of that area have jurisdiction to try the case. In support of this argument he has relied the Judgment passed in the case of State of M.P. Vs. Suresh Kaushal and Another,

Obviously, the learned Single Judge has not considered the implication of Section 179 of the Code of Criminal Procedure. It is extracted below:

179. Offence triable where act is done or consequence ensues: When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be enquired into or tried by a court within whose local jurisdiction such thing has been done or such consequence has ensued.

The above Section contemplates two courts having jurisdiction and the trial is permitted to take place in any one of those two courts, one is the court within whose local jurisdiction the act has been done and the other is the court within whose local jurisdiction the consequence has ensued. When the allegation is that the miscarriage took place at Jabalpur it cannot be contended that the court at Jabalpur could not have acquired jurisdiction as the acts alleged against the accused took place at Indore.

21. In support of this argument he has also relied the Judgment passed in the case of Mohan Baitha and Others Vs. State of Bihar and Another,

In the aforesaid case the Section 177 P.C. place of enquiry and trial meaning of word "ordinarily" and Section 220 Cr.P.C. "same transaction" were considered with regard to the territorial jurisdiction and held "The accused merely assailed the territorial jurisdiction of the criminal court at Bhagalpur in relation to offence u/s 304-B on the ground that the said offence stood committed in Uttar Pradesh. Section 177 of the Code of Criminal Procedure on which Mr. Mishra relies, uses the expression "ordinarily". The use of the word "ordinarily" indicate that the provision is a general one and must be read subject to the special provisions contained in the Criminal procedure Code. That apart, this Court has taken the view that the exceptions implied by the word "Ordinarily" need to be limited to those specially provided for by the law and exceptions may be provided by law on considerations of convenience or may be implied from other provisions of law permitting joint trial of offences by the same court (see *Purushottamdas Dalmia v. State of W.B.*, *L.N. Mukherjee v. State of Madras* and *banwarilal Jhunjhunwalal v. Union of India*). Even the Law Commission in its 41st report had observed that the general rule laid down in Section 177 is neither exclusive nor peremptory. The learned Single Judge while dismissing the contention raised by the accused has relied upon Section 220 of the Code of Criminal Procedure and considering the narration of events culminating in the death of Kalpana, which constitutes offence u/s 304-B IPC, the learned Single Judge has come to a conclusion that there appears to exist a continuity of action to attract Sub-section (1) of Section 220, and therefore, it cannot be said that the jurisdiction of the Magistrate at Bhagalpur is ousted to try the offence u/s 304-B. The High Court has also casually observed that the assertions made prima facie constitute an offence u/s 498-A and since the accused had approached the Court even before the Magistrate had applied his mind to the result of the investigation on the basis of the allegations made by the informant/complainant, it would not be appropriate to express any definite opinion on the same. According to Mr. Mishra, from the tenor of the impugned judgement, it can be well imagined that the Judgment is rather a strained one and has been passed in view of the earlier directions and by no stretch of imagination, the incident constituting the offence u/s 304-B can be held to be one falling u/s 220 of the Code of Criminal Procedure, so as to be tried along with the offence u/s 406 At Bhagalpur. It may be noticed that u/s 220 of the Code of Criminal Procedure, offences more than one committed by the same persons could be tried at one trial, if they can be held to be in one series of acts, so as to form the same transaction. The expression "same transaction" from its very nature is incapable of an exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense and the ordinary use of language must decide whether on the facts of a particular case, it can be held to be in one transaction. It is not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. But the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action and community of purpose or design are the factors for deciding whether certain acts form the same transaction or not. Therefore a series of acts whether are so

connected together as to form the same transaction is purely a question of fact to be decided on the aforesaid criteria. Bearing in mind the aforesaid principles and on scrutiny of the narration of events in the FIR as well as the complaint, we do not find any infirmity with the conclusion of the High Court in applying Section 220 of the criminal procedure code to the case in hand and in coming to the conclusion that the jurisdiction of the Magistrate at Bhagalpur cannot be held to have been ousted for the offence u/s 304-B IPC.

22. On the point of delay learned Counsel for the opposite party No. 2 submitted that there was no delay in filing the complaint. The application was moved before the the District Court at Narnaul within the statutory period, when the opposite party No. 2 found that there was no scope of compromise. The suit for dissolution of marriage was moved by committing fraud and under pressure and there was no chance of settlement. Thereafter the application was moved u/s 156(3) Cr.P.C.

23. The counsel for the opposite party No. 2 further submitted that if prima facie the commission of offence is disclosed the summoning order or the complaint is not liable to be quashed in exercise of power u/s 482 Cr.P.C. by the High Court. In support of that he relied upon the following Judgment passed in the case of Mohinder Singh Vs. Gulwant Singh and others,

This Court as well as various High Courts in a catena of decisions have examined the gamut and significance of Section 202 of the Code and settled the principle of law, the substance of which is as follows:

The scope of enquiry under Sections 202 is extremely restricted only to finding out the truth or otherwise of the allegations made in the complaint in order to determine whether process should issue or not u/s 204 of the Code or whether the complaint should be dismissed by resorting to Section 203 of the Code on the footing that there is no sufficient ground for proceeding on the basis of the statements of the complainant and of his witnesses, if any. But the enquiry at that stage does not partake the character of a full dress trial which can only take place after process is issued u/s 204 of the Code calling upon the proposed accused to answer the accusation made against him for adjudging the guilt or otherwise of the said accused person. Further, the question whether the evidence is adequate for supporting the conviction can be determined only at the trial and not at the stage of the enquiry contemplated u/s 202 of the Code. To say in other words, during the course of the enquiry u/s 202 of the Code, the enquiry officer has to satisfy himself simply on the evidence adduced by the prosecution whether prima facie case has been made out so as to put the proposed accused on a regular trial and that no detailed enquiry is called for during the course of such enquiry. Vide *Vadilal Panchal v. Dattatraya Dulaji Ghadigaonker* AIR 1960 SC 113 and *Pramatha Nath Taluqdar Vs. Saroj Ranjan Sarkar*,

24. According to the aforesaid Judgment the learned Magistrate has to decide himself simply on the basis of the evidence. Whether prima facie the commission

offence is disclosed or not and at that stage no detail inquiry or a full dress trial was required before issuing process.

25. In support of this argument, the following case also has been relied upon. Hareram Satpathy Vs. Tikaram Agarwala and Others,

In this case it was considered and held "From the foregoing it is crystal clear that u/s 190 of the Code of Criminal Procedure the Magistrate takes cognizance of an offence made out in the police report or in the complaint and there is nothing like taking cognizance of the offenders at that stage. As to who actually the offenders involved in the case might have been has to be decided by the Magistrate after taking cognizance of the offence.

In the instant case the Sub-Divisional Magistrate took cognizance of the offence on the police report, and after taking cognizance of the offence and perusal of the record he appears to have satisfied himself that there were prima facie grounds for issuing process against the respondents. In so doing the Magistrate did not in our judgment exceed the power vested in him under law.

The second point does not present any difficulty. It is well settled that once the Magistrate has after satisfying himself prima facie that there is sufficient material for proceeding against the accused issued process against him, the High Court cannot go into the matter in exercise of its revisional jurisdiction which is very limited. The following observations made in Nagawwa v. Veeranna Shivalingapp Konjalgi (supra) and apposite in this connection:(SCC p. 741, para 5).

It is true that in coming to a decision as to whether a process should be issued the Magistrate can take into consideration inherent improbabilities appearing on the face of the complaint or in the evidence led by the complainant in support of the allegations but there appears to be a very thin line of demarcation between a probability of conviction of the accused and establishment of a prima facie case against him. The Magistrate has been given an undoubted discretion in the matter and the discretion has to be judicially exercised by him. Once the Magistrate has exercised his discretion it is not for the High Court or even this Court to substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused. These considerations, in our opinion, are totally foreign to the scope and ambit of an inquiry u/s 202 of the Code of Criminal Procedure.

Now as the Magistrate was restricted to finding out whether there was a prima facie case or not for proceeding against the accused and could not enter into a detailed discussion of the merits or demerits of the case and the scope of the revisional jurisdiction was very limited the High Court could not in our opinion launch on a detailed and meticulous examination of the case on merits. As the High Court has clearly exceeded its jurisdiction in setting aside the order of the Sub-Divisional Magistrate, we cannot do otherwise than to allow the appeal. In the result the appeal succeeds and the Judgment and order of the High Court is

set aside.

25. From a perusal of the application u/s 156(3) Cr.P.C. and from" the aforesaid discussions, it is clear that opposite party No. 2 left the house of the applicant No. 1 in the year 2005. However, no complaint was made either before the police or the Magistrate concerned with regard to the mental or physical torture by the applicants. There are allegations against the applicants to the effect that the marriage was solemnised on 26.1.2000 and from the second day after his first night at the matrimonial house the applicants made taunt regarding dowry and when complaint was made, her husband said that they were correct. The applicant No. 4 to 9 who were living outside are not concerned with the dowry. They are not going to get any share from cash or articles given as dowry or some thing which has to be given in future, if any. There is no specific allegation of physical torture and mental torture. Except the vague allegation that they made a taunt regarding dowry. There is allegation against the applicant No. 8, to the effect that the opposite party No. 2 was pushed by the applicant No. 8 her Jethani and she received severe burn injuries on her hand but from the perusal of the injury report filed as annexure 1 to the counter affidavit it appears that there was no burn injury in the hand or any part of the body. The injury report is not supporting the case of the applicants. However, the medical report is opinion of the doctor.

26. As far as delay part is concerned firstly the cruelty includes physical as well as mental torture and is a continuing offence. Prima facie it appears that when there was no chance of any settlement, only then application u/s 156(3) Cr.P.C. was moved.

27. So for as the moving of the application for dissolution of marriage u/s 13B of the Hindu Marriage Act is concerned, even if fraud and pressure was made that was on the part of the applicant No. 1 husband of the opposite party No. 2. Even if there was mental or physical torture that would be due to the conduct of the husband. So for as the Section 406 I.P.C. is concerned, regarding misappropriation of stridhan/dowry articles, it will be presumed that the same was entrusted to the applicant No. 1, the husband of the opposite party No. 2 and even if others were using that would be merely with the permission of the applicant No. 1, hence offence u/s 406 I.P.C. would be made out to only against the applicant No. 1.

28. So for as the territorial jurisdiction is concerned Section 498-A I.P.C. is a continuing offence. Cruelty includes the mental as well as physical torture. It would be immaterial whether the opposite party No. 2 was living at her matrimonial house or at her parental house. It would be a continuing offence. Not returning the articles or stridhan would also constitute the mental cruelty. In case of the offence u/s 498A IPC the aggrieved wife could file the First Information Report/Complaint either at the place where the demand for dowry was made and thereafter causing cruelty for non fulfilment of demand of dowry and also at a place where aggrieved wife was forced to live i.e. to say the

consequence, that ensued as a result of the cruelty. By plain reading of Section 177 Cr.P.C. to Section 179 Cr.P.C. it would be clear that where an offence is continuing offence or where the consequences ensuing of an act is also an offence, the court where such consequence has ensued, would also have jurisdiction to try the offence. Apart from that as per the allegation 24 Tola Gold was demanded on telephone while she was at Robertsganj. The act of not returning of stridhan by the husband is not only covered by Section 406 I.P.C. but is also an act which amounts to cruelty and the same would be covered u/s 498A I.P.C. depriving aggrieved of her stridhan.

29. However now a days it is prevailing in the society to implicate the entire family and relation of the husband, who are not concerned with the demand of dowry and torture. At this stage the trial court is not to examine and assess in detail the material placed on record and should examine only with a view of whether prima facie commission of offence is disclosed or not. If prima facie commission of offence is disclosed then merely on the basis of vague and bald statement of mala fide the complaint/proceeding is not liable to be quashed.

30. In view of the aforesaid discussions since there is no specific allegation against the applicant No. 4, 5, 6, 7 and 9 who are residing separately and prima facie no offence is disclosed, hence in respect of them in exercise of power under Sections 482 Cr.P.C. the present criminal misc. application is hereby allowed and the proceedings of Criminal Complaint No. 2819/07 (Monu Sharma v. Deepak Joshi and Ors.) under Sections 498A-406 I.P.C. and 4 D.P. Act., in respect of them is hereby quashed.

31. So far as the applicants No. 1, 2, 3 and 8 are concerned, the applicant No. 1 is husband, applicant No. 2 is father-in-law, applicant No. 3 is mother-in-law of aggrieved wife, who were residing jointly and applicant No. 8 is sister-in-law (Jethani), against whom there was specific allegation and prima facie commission of offence is disclosed against them. The evidence will not be examined at this stage like a trial entering into the detailed discussion of merits or demerits. The evidence at the stage of Section 202 Cr.P.C. will not be evaluated minutely and meticulously like trial. Only this much was to be seen whether prima facie commission of offence is disclosed or not. At the stage of issuing process and framing of charge, the trial court has not to consider, even sufficiency of material, hence, in respect of them this application is rejected. No order as to cost.

32. However, in view of the facts and circumstances of the case, if the applicants No. 1, 2, 3 and 8 appears before the courts below within four weeks from today and apply for bail, their bail applications shall be decided expeditiously in accordance with law without unreasonable delay after providing an opportunity to public prosecutor. For a period of one month no coercive steps will be taken against them.