

(2024) 11 JH CK 0043
In the Jharkhand High Court
Case No : Writ Petition (Crl) No. 916 Of 2023

Dhananjay Pahadi @ Dhananjay Kr. Pahadi
Vs

APPELLANT

State Of Jharkhand

RESPONDENT

Date of Decision : 19-11-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 498A

Citation : (2024) 11 JH CK 0043

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Abhishek Kumar Dubey, Binit Chandra

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. On repeated calls, nobody has responded on behalf of respondent no.2. Notice upon respondent no.2 has already been effected, however, respondent no.2 has not appeared as yet. With a view to provide further one more opportunity to respondent no.2, the matter was adjourned on 18.09.2024 and further on 29.10.2024, however, till date, no appearance is made on behalf of respondent no.2 and, as such, this petition is being heard in absence of respondent no.2.

2. Heard Mr. Abhishek Kumar Dubey, learned counsel for the petitioner and Mr. Binit Chandra, learned counsel for the State.

3. The prayer in the writ petition is made for quashing of the entire criminal proceeding including the order taking cognizance dated 25.06.2021 passed by the learned C.J.M., Seraikella in connection with Seraikella (Mahila) P.S. Case No.03/2020, G.R. Case No.557/2021, pending in the Court of the learned C.J.M., Seraikella.

4. The FIR was registered alleging therein that the informant-respondent no.2 was married to Shyamsundar Pahadi on 01.07.2014 and after marriage accused

persons started mentally and physically harassing her and started asking her to bring money from her maternal house. It was further alleged that she struggled for 5 years due to which her treatment is going on in AIIMS. It was also alleged that in absence of her husband, the petitioner used to come in drunken state and misbehaved with her and that co-accused used to threaten and assault her which she informed her husband whereupon her husband took her to his work place after which she was treated at AIIMS Delhi and thereafter when she came back again she was assaulted and exploited. It was further alleged that during Annaprasan ceremony of her son, co-accused tried to assault in front of relatives and also ceremony took place in verandah as other rooms were locked. It was also alleged that on 11.03.2020, when she came along with her husband and children, then all accused persons drove them out stating that her father had promised to Rs.10 Lakhs and upon objection by her husband, they were threatened to life. It was also alleged that thereafter she called her father. However, when he was also threatened and after 4 months, when she came back then the door was locked and not opened even after much persuasion.

5. Learned counsel for the petitioner submits that the petitioner happened to be the brother-in-law of the informant. He submits that there are general and omnibus allegations against all the accused persons including the petitioner and the father-in-law, mother-in-law, sister-in-law and maternal uncle-in-law and they had moved before this Court in Cr.M.P. No.1538 of 2022, which was allowed vide order dated 27.02.2023 and the entire criminal proceeding was quashed. He further submits that the informant was residing along with her husband at Bareilly at the time of alleged occurrence and the husband is not made accused in the present case, however, the in-laws and this petitioner have been made accused. He submits that on 13.06.2020, the informant has made a complaint before Mahila Police Station, Seraikella, wherein she has given a complete different story and subsequently in order to make out the case of serious nature, she lodged the present case by developing the story. He then submits that earlier complaint made by the informant are contained in Annexures-2 and 2/1. He also submits that the in-laws of the informant had earlier filed complaint case against the informant before Adityapur police station on 14.03.2020 with regard to the dispute being made by respondent no.2 for the property of the family. He submits that thereafter the present case has been lodged on 27.06.2020 i.e. after more than 3 months. He submits that in view of that, maliciously the present case has been lodged and the learned Court has been pleased to take cognizance under Section 498-A and 34 of the IPC.

6. Learned counsel for the State opposed the prayer on the ground that the allegations are there.

7. The Court has gone through the materials on record and finds that admittedly the petitioner happened to be the brother-in-law of respondent no.2. The in-laws of respondent no.2 have lodged complaint against the informant before Adityapur police station on 14.03.2020, whereas, the present case has been lodged on

27.06.2020. Prior to lodging of the present FIR, another complaint was made by the informant before Mahila Police Station, Seraikella, in which, allegation with regard to present FIR is not made, which further suggests that only to make out the case, further story was tried to be made out to implicate the petitioner. In the contents of the FIR, there are general and omnibus allegations against the petitioner. Further, the case of the co-accused, who are in-laws of respondent no.2 has already been allowed and the entire criminal proceeding was quashed by a Coordinate Bench of this Court in Cr.M.P. No.1538 of 2022, vide order dated 27.02.2023, contained in Annexure-4.

8. Such type of cases are being filed in the heat of the moment over trivial issues without proper deliberations and this aspect of the matter has been considered by the Hon'ble Supreme Court in the case of Preeti Gupta v. State of Jharkhand, reported in [(2010) 7 SCC 667]. Relevant paragraphs of the said judgment read as under:

"32. It is a matter of common experience that most of these complaints under Section 498-AIPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised 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 complaint are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful."

9. Little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are falsely implicated by the wives. This aspect of the matter has been considered by the Hon'ble Supreme Court in the case of Geeta Mehrotra v. State of U.P., reported in [(2012) 10 SCC 741].

10. The Hon'ble Supreme Court in the case of K. Subba Rao v. State of Telangana, reported in [(2018) 14 SCC 452] has observed that the Court should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths.

11. The above line of judgments of the Hon'ble Supreme Court clearly suggest that how Section 498-A of the Indian Penal Code is being misused nowadays.

12. In view of the above facts, reasons and analysis, so far as the present petitioner is concerned, the entire criminal proceeding including the order taking cognizance dated 25.06.2021 passed by the learned C.J.M., Seraikella in connection with Seraikella (Mahila) P.S. Case No.03/2020, G.R. Case No.557/2021, pending in the Court of the learned C.J.M., Seraikella are, hereby, quashed.

13. Accordingly, this petition is allowed and disposed of.

14. Interim order, if any, granted by this Court is vacated.