

(2008) 02 AHC CK 0289

In the Allahabad High Court

Case No : Criminal M.A. No's. 27103 and 28092 of 2007

Kumari Gudiya alias Pratima Singh and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 28-02-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2008) 2 ACR 2319

Hon'ble Judges : Amar Saran, J

Bench : Single Bench

Advocate : P.N. Singh, for the Appellant; Manoj Kumar Singh and A.G.A., for the Respondent

Judgement

Amar Saran, J.—Heard learned Counsel for the applicants, Sri Manoj Kumar Singh, learned Counsel for the complainant and learned A.G.A.

2. Sri Manoj Kumar Singh has filed a counter-affidavit on behalf of Tejdhari Singh, complainant, father of Seema Devi as Seema Devi died subsequent to the incident.

3. This application has been filed for quashing the Charge-Sheet No. 83 of 2006 dated 23.11.2006 in Case Crime No. 543 of 2006, u/s 498A, 323, 504 and 506, I.P.C., Police Station Machhlisahr, district Jaunpur and also criminal proceeding in pursuance of the aforesaid charge-sheet in Criminal Case No. 6799 of 2006, State v. Dilip Kumar Singh and Ors., pending in the Court of Judicial Magistrate, Ist Jaunpur.

4. Counter and rejoinder-affidavits have already been exchanged.

5. Initially, allegations u/s 156 (3) of the Cr. P.C. were that co-accused Dilip Kumar Singh was married with Seema Devi in 2001. Substantial amount of dowry was given at the time of marriage and sufficient expenses were incurred by the father of Seema Devi, but Dilip Singh and his father Harish Chandra at the

time of "khichri festival" demanded a colour T.V., golden chain, fridge and Motor Cycle and they were not willing to consume the "Khichri" for non-fulfilment of the dowry demands. When Smt. Seema (deceased) went to her sasural then again the applicants and co-accused reiterated the demand for a colour T.V., Chain, Fridge and Car. Again, some demands were made when she came to her parental home after 8 days. When Seema went to her Sasural on 22.2.2002, she was again tortured by the applicants. When Dilip Singh got a job in the Wireless Department, he now demanded a car instead of a motor cycle which he was demanding earlier. It is said that in case of non-fulfilment of the demand. The applicants and co-accused would get Dilip married elsewhere and Seema will be sent back to her home and they would not bring her back to her sasural. On 19.8.2006 at about 11 p.m., the applicants Kusumwati and Gudia and their father abused Seema for not bringing the dowry items, then she replied that it will be better if she would be eliminated at one time instead of teasing her again and again. On her reply, all the accused persons beat her with dandas, kicks and fists even though Seema was pregnant by 3 or 4 months. Kusumwati and Gudia gave fists blow on her stomach so that she could abort. Thereafter her husband and father-in-law Harish Chandra took her forcibly from Kanpur to Lucknow and from Lucknow to Jaunpur and left her all alone at the City Station Jaunpur and also threatened her that if she could not meet out the dowry demands aforesaid, she would be murdered and Dilip would be married elsewhere. Then Seema rang up her parental house "maika" and ultimately she was taken there and on the next day she was medically examined. Subsequently, she aborted the child.

6. The principal argument raised by learned Counsel for the applicants is that the incident in this case relates to Kanpur Nagar and not Jaunpur and the summoning order dated 8.12.06, passed by the Judicial Magistrate, Jaunpur on the charge-sheet was without jurisdiction.

7. Learned Counsel for the complainant has drawn my attention to the injuries sustained by Smt. Seema. She sustained a lacerated wound on the right side of the scalp and also other injuries were found. Apparently, Seema even aborted her child. He has also drawn my attention to the decision of the Supreme Court in the case of Sujata Mukherjee v. Prashant Kumar Mukherjee 1997 SCC 673, where a continuing offence is committed on several occasions, then a complaint u/s 498, I.P.C. etc., could be filed in both the districts where she has married as well as her home place where the Magistrate has also jurisdiction to entertain the complaint.

8. In this case some incidents have taken place at Jaunpur as mentioned, viz., the earlier demand for dowry when the applicants had ultimately raised the dowry demands at the time of "bidai" from her maternal home and thereafter when they left her at the Railway Station, Jaunpur. All these are acts of cruelty. There is thus no illegality in the aforesaid order.

9. No ground for quashing the charge-sheet is made out.

10. The application is rejected.

11. In view of the circumstances of the case, it is provided that if the applicants surrender before the Court concerned within three weeks from today in the aforesaid case and apply for bail, their bail application shall be disposed of expeditiously in accordance with law. It is made clear that the aforesaid observations have been made only for the purpose of disposal of this application and the court below shall dispose of the bail application and trial of the case uninfluenced by the same.