
(2023) 04 JH CK 0024

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 612 Of 2011

Lakshmi Narayan Singh Suman

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 12-04-2023

Acts Referred:

Indian Penal Code, 1860 — Section 498A

Citation : (2023) 04 JH CK 0024

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Saurabh Shekhar, Ruby Pandey, Ajit Kumar

Final Decision : Allowed/Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard 1. Mr. Saurabh Shekhar, learned counsel for the petitioner, Mrs. Ruby Pandey, learned counsel for the State and Mr. Ajit Kumar, learned counsel for opposite party no.2.

2. This petition has been filed for quashing the entire criminal proceedings arising out of Complaint Case No.203 of 2010 and also the order taking cognizance dated 25.11.2010, whereby, the learned court has taken cognizance under Section 498A of the Indian Penal Code against the petitioner, pending in the court of the learned Judicial Magistrate, 1st Class, Latehar.

3. The complaint case was filed alleging therein that the marriage of the complainant was solemnized with accused no.1 on 02.05.2007. It was further alleged that at the time of marriage, certain amount was paid by way of dowry and after solemnization of the marriage, when the complainant went to her in-laws' house, the accused persons, namely accused nos. 1 to 6 started making demand of dowry and when the demand was not fulfilled, the physical as well as mental torture was started to be given to the complainant. The allegation against the petitioner is that he is the landlord, having a residential building in the

district of Ranchi and a portion of the same, the husband of the complainant i.e. accused no.1 had taken on rent and after solemnization of the marriage, the complainant along with her husband had come to reside in the said rented house and it has been alleged that the petitioner (accused no.7 in the complaint petition) has instigated the husband of the complainant and her brother-in-law for killing her. Thereafter, the same was informed to the parents of the complainant and they have taken the complainant to her maternal house and hence the complaint petition has been filed.

4. Mr. Saurabh Shekhar, learned counsel for the petitioner submits that at paragraph no.8 of the complaint petition, the allegation has been made against the petitioner that he being the landlord of the residential premises, which was taken on rent by the husband of the complainant, has instigated the husband of the complainant and her brother-in-law for killing the complainant and as such the petitioner has also committed an offence under Section 498A of the Indian Penal Code. He further submits that under the provisions of Section 498A of the Indian Penal Code, only relatives can be arrayed as accused persons, but the petitioner being the landlord, having no relationship with the accused persons and he has been made accused in this case and, hence, no case can be said to be made out against the petitioner for the offence under Section 498A of the Indian Penal Code. To buttress this argument, he relied upon the judgment passed by the Hon'ble Supreme Court in *U. Suvetha v. State by Inspector of Police and another*; [(2009) 6 SCC 757].

5. Paragraphs 11 and 18 of the said judgment are quoted herein below:

"11. The word "relative" has been defined in P. Ramanatha Aiyar's Advanced Law Lexicon, Vol. 4, 3rd Edn. as under:

"Relative.—'Relative' includes any person related by blood, marriage or adoption. (Lunacy Act ...)

The expression 'relative' means a husband, wife, ancestor, lineal descendant, brother or sister. (Estate Duty Act ...)

'Relative' means in relation to the deceased,

- (a) the wife or husband of the deceased,
- (b) the father, mother, children, uncles and aunts of the deceased, and
- (c) any issue of any person falling within either of the preceding sub-clauses and the other party to a marriage with any such person or issue. (Estate Duty Act ...)

A person shall be deemed to be a relative of another if, and only if—

- (a) they are members of a Hindu undivided family; or
- (b) they are husband and wife; or
- (c) the one is related to the other in the manner indicated in Schedule I-A

[Companies Act (1 of 1956 ...)]

'Relative' in relation to an individual means—

- (a) the mother, father, husband or wife of the individual, or
- (b) a son, daughter, brother, sister, nephew or niece of the individual, or
- (c) a grandson or granddaughter of the individual, or
- (d) the spouse of any person referred to in sub-clause (b). (Income Tax Act ...)

'Relative' means—

- (1) spouse of the person;
- (2) brother or sister of the person;
- (3) brother or sister of the spouse of the person;
- (4) any lineal ascendant or descendant of the person;
- (5) any lineal ascendant or descendant of the spouse of the person;

... (Narcotic Drugs and Psychotropic Substances Act ...)”

18. By no stretch of imagination would a girlfriend or even a concubine in an etymological sense be a “relative”. The word “relative” brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise.”

6. On the other hand, Mrs. Ruby Pandey, learned counsel for the State submits that the learned court has taken cognizance after looking to the solemn affirmation and enquiry witnesses.

7. Mr. Ajit Kumar, learned counsel for opposite party no.2 submits that there are allegations against the petitioner of instigating the accused for killing the complainant and that is why the learned court has rightly taken cognizance against the petitioner.

8. In view of the above submissions of the learned counsel for the parties, the Court has gone through the materials on the record including the contents of the complaint petition as well as order taking cognizance and finds that in the complaint petition itself where the petitioner has been arrayed as accused no.7, it has been disclosed that the petitioner is the landlord and what kind of torture has been made upon opposite party no.2 by the petitioner, is not disclosed in the complaint petition. It is an admitted fact in view of the contents of the complaint petition that the petitioner is not relative of opposite party no.2 or her in-laws'.

This case is fully covered in light of the judgment passed in U. Suvetha (supra).

9. In view of the aforesaid facts, reasons and analysis, the entire criminal proceedings arising out of Complaint Case No.203 of 2010 and also the order taking cognizance dated 25.11.2010, pending in the court of the learned Judicial Magistrate, 1st Class, Latehar, so far as the present petitioner is concerned, is quashed.

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

11. Interim order, if any granted by this Court, stands vacated.