
(2007) 02 PAT CK 0121
In the Patna High Court
Case No : Cr. Misc. No. 39943/2004

Pramod Narain Sharma and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 01-02-2007

Acts Referred:

Citation : (2007) 02 PAT CK 0121

Final Decision : Dismissed

Judgement

S.C. Jha, J.—Heard learned Counsel for the parties.

2. This application has been filed for clashing the order dated 10.7.2004 passed in Complaint Case No. 300/04 by the learned SDJM (East), Muzaffarpur, whereby and where-under cognizance under Sections 406 and 498A of Indian Penal Code as also Sections 3 and 4 of Dowry Prohibition Act has been taken against the petitioners.

3. The facts of the case are as follows: One Dr. Suresh Kumar Singh, father of Nirja Singh, had filed a complaint case before the Chief Judicial Magistrate, Muzaffarpur, bearing Complaint case No. 300/2004 on 16.2.2004, for the commission of /offences punishable under Sections 406, 420 / 120B, 498A, 323, 324 and 307 of Indian Penal Code as also Sections 3 and 4 of Dowry Prohibition Act.

4. According to the complaint petition, marriage of Nirja Singh, daughter of the complainant, was solemnised on 10.5.2001 with Rajeev Sharma, Petitioner No. 3 after observance of Hindu rites and rituals at their place in Mohalla-Jhuranchapra, P.S. Brahampur, in the district of Muzaffarpur. Before negotiation of such marriage, father of the groom, Petitioner No. 2 Pramod Narayan Sharma, has given an impression that his son Rajeev Sharma is a qualified Software Engineer, is working in a reputed Software Company in Cardiff in United Kingdom, namely, Living Stones as Technical Manager and getting handsome salary and requested the complainant for early negotiation of the marriage on

the plea that his son was coming over to the native village Motihari and due to paucity of time, final settlement of marriage may be done within 2-3 days. As such, the complainant approached their native village Laxmipur, Motihari and he had talk with Pramod Narain Sharma and Rani Brinda Sharma, parents of the groom, as also the groom who had reiterated their early version so far Software Degree and working as Technical Manager in the aforesaid reputed company at Cardiff, United Kingdom, was concerned. Necessary formalities were observed in view of the fact that there was pressure for early marriage. But intelligently petitioners/side-tracked the issue regarding professional qualification of the groom and fixed 6.5.2001 as the date of "Faldan" and 10.5.2001 as the date of marriage and the marriage was performed on that date. In between the period of Faldan and marriage when all the relations of the complainant were intimated regarding such marriage, the complainant was called in Motihari by the accused-petitioners and pressurised the complainant to part with Rupees Eight lacs cash besides costly and valuable presentation such as Gold (sic), Gold Chain, costly Wrist Watch, Washing Machine, Color T.V. and valuable Clothes etc. The complain (sic) expressed his inability but on being extended threat and seeing the family prestige, the complainant gave presentations of Gold Ring, Gold Chain, Silver utensils, suit lengths etc. Mother of the groom was presented Gold ornaments, Costly Banarasi Saree worth Rs. 11,000/- and cash Rs. 1,000/-. Father of the groom was given presentation by way of Rs. 5,000/- cash in addition to presentation of Rs. 21,000/- at the time of Faldan and Tilak. Further presentation of Rupees Five Lacs was given by the complainant to the parents of the groom on the assurance that this amount would be deposited in the name of Nirja Singh. But even then, there was persistent demand of Rupees Three Lacs as remaining dowry. In this way, articles worth Rs. 2,26,000/- were given to the groom's side by the complainant. Not only that, even Rupees Two Lacs out of Rupees Three Lacs so demanded, was received by the accused-petitioners by virtue of Draft of Rupees One Lac and One Lac in cash. Photo-copy of the Draft has been annexed with the complaint petition. But even then remaining amount of Rupees One Lac was again demanded after marriage with the saying that the groom should also be given Diamond garland (chain).

5. Further allegation is that there was huge presentation to Nirja Singh by the close relatives in the family such as costly ornaments besides cash and costly worth Rs. 3,00,000/- Gold Sarees/ Husband of Nirja Singh was also given/ ornaments, suit length, Gold chain Wrist Watch and cash Rs. 5,000/- by the relatives of the complainant and thereafter such presentations received from the close relatives of Nirja Singh were carried to the native village of the groom i.e. Sasural of Nirja Singh on the next day of the marriage at Laxmipur, in the district of Motihari, East Champaran, where Nirja Singh started living for some time. But her mental torture commenced for non-fulfilment of dowry demand of the remaining amount of Rupees One Lac as also for Diamond Garland (chain). Nirja Singh came to her Sasural on 11.5.2001 and on her return to her Naihar from Sasural, on 16.5.2001 narrated /Nirja Singh (sic) /the story of mental

torture meted out to her by the accused-petitioners. Further allegation against the accused-petitioners is that on 17.5.2001 they came to the place of the complainant and took Nirja Singh Calcutta to (sic) /on the plea that her Visa has to be made for going to United Kingdom where/her marriage registration was done and marriage registration was essential for the purpose of Visa. Even at the time of taking the daughter of the complainant for marriage registration, the accused-petitioners demanded the remaining dowry amount of Rupees One Lac as Also Diamond Chain. Later on, Nirja Singh left for United Kingdom and there she gathered that her husband was neither a qualified Software Engineer nor working in Software Company. Rather, he used to prepare snacks and distribute the same to several outlets and shops. She informed the matter to her father and on being protested as to why he married concealing all the facts, she was assaulted and kept without food and locked in a room for two days and extended threat for her elimination if she would dare to reveal all such facts and keep her as maid- servant in the house and they would perform (sic) another marriage of her husband as a result her health began to deteriorate and she became ill. Sometimes, she thought of committing suicide at the behaviour of her in-laws and she also informed her father and other relations that the accused-petitioners are committing torture on her for the remaining dowry amount of Rupees One Lac as also Diamond Chain. She also informed her father that she was confident that at any point of time she may be eliminated by hatching a conspiracy by burning her. Nirja Singh then managed to come India any how and came down at Muzaffarpur and narrated the entire happenings and events to her relations including her father, the complainant.

6. Further story as stated in the complaint petition now goes to show that Nirja Singh continued her further studies at Delhi. In the mean time, on 30.1.2002 accused-petitioner Rajiv Sharma came over to Delhi alongwith his parents at her place and started living with her. They again began to demand the remaining dowry amount and the Diamond Chain for which she was being pressurised. She was abused, assaulted in Delhi and extended threat to her that her husband would be married to another girl. She again narrated the entire story of abuse and assault (sic) by the accused - petitioners to her father on Telephone. The complainant and his wife alongwith his brother then went to the residence of Nirja Singh at Delhi and she again narrated them about apprehension of her murder. On being asked by the complainant about the torture meted out to her, the accused-petitioners confessed their guilt with this assurance that no such ill treatment would be meted out to her in future. On 18.4.2002 Nirja Singh again went to Cardiff, United Kingdom, alongwith them but she again informed on Telephone regarding her mental and physical torture with the saying that the accused-petitioners tried to eliminate her by putting her on fire by sprinkling I Kerosene Oil. But she any how managed to rescue herself. She had also informed that the accused-petitioners had kept Gas cylinder behind her in a leaking condition so that while in kitchen for preparing food, the same could engulf her to finish her life. She also informed that of Iron (sic) wire of the (sic) switch/as

also wire of the switch of Washing machine were made naked so that while utilising the same, she may be eliminated.

7. On 17.1.2003, Nirja Singh again managed to come to India and had lodged a complaint in Human Rights Commission, Women Cell at Delhi, regarding the mental and physical torture meted out to her by the accused-petitioners and had also informed her father on Telephone. The complainant went to Delhi after receiving such information from her daughter.

8. It has been alleged that the accused petitioners (sic) & belongings had kept the entire ornaments/of Nirja Singh which were entrusted to them (sic) on the assurance that on demand such articles would be given to Nirja Singh. But when Nirja Singh demanded such articles and cash, she was refused and the accused-petitioners abused and tortured the daughter of the complainant saying that she was a bastard and a maid servant.

9. The complainant in support of his allegation in complaint petition has supported the facts on oath and four witnesses were examined in course of enquiry besides production of sane papers here which were duly considered and ultimately the impugned cognizance order has been passed which is under challenge.

10. Contention has been advanced on behalf of the Petitioners that the petitioner Rajeev Sharma is a qualified Software Engineer and is under employment as stated in the complaint petition and the allegations in respect of dowry demand is nothing but only to harass the petitioners. Nirja Singh after coming over to India, did not go back to England for which the accused-petitioners persuaded her. But she wanted to stay Indian. She was employed there in England, but she left the Job for the reasons best known to her. It has also been submitted that petitioner Rajeev Sharma had also filed a case for divorce in Cardiff United Kingdom, where he proved his case for divorce and ultimately got a decree for divorce. On 5.11.2003 marriage was dissolved which became final on 19.12.2003. But the instant complaint case was filed after two months of such dissolution of marriage. The complainant's daughter was duly noticed who also filed written statement there, so no offence punishable u/s 498A of Indian Penal Code is made out.

11. Learned Counsel for opposite party No. 2 by (sic) out the aforesaid facts and events has of course submitted that (sic) the petitioners during the absence of Nirja Singh in United Kingdom has obtained the ex-parte decree there because of her paucity of fund and movement. She comes from a Middle class family and she was lured for a decent living in United Kingdom. But she could find on her arrival there in United Kingdom that her husband was a drunkard having illicit, relationship with several women and was doing the job of distribution of snacks in different outlets and shops. So, it is a case of cheating and well within the jurisdiction where the marriage was solemnised.

12. Learned Counsel for the petitioners has referred two citations, namely Y.

Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, . Learned Counsel for the O.P. No. 2 has also referred four citations, namely Smt. Sujata Mukherjee Vs. Prashant Kumar Mukherjee, : Pratibha Rani Vs. Suraj Kumar and Another, and Ramji Singh and Others Vs. State of Bihar and Others .

13. The main emphasis for assailing the impugned order is the territorial Jurisdiction of the court which has passed the order of cognizance. According to the learned Counsel for the petitioners, In the given situation the court of Muzaffarpur was not at all competent to have passed the order of cognizance in view of the fact that all such tortures either mentally or physically are alleged to have been committed outside Indian (United Kingdom) where the daughter of the complainant, namely, Nirja Singh started living with Petitioner Rajeev Sharma; there is nothing to infer that any overtact has been committed in India.

14. In reply to the contention if the learned Counsel for the petitioners, learned Counsel for O.P. No. 2 Sri Rana Pratap Singh has submitted that as a whole, thing has to be visualised in the background of the girl coming from a middle income group of having hope and aspiration in United Kingdom of living a decent life. But alas, what has been found there ultimately led her to leave that land. He has further submitted that things should also be considered in this background that, although, she got an employment in United Kingdom, but she opted out of the country only due to torture, humiliation and sufferings. The consequence of events commencing from Motihari to Muzaffarpur and thereafter to United Kingdom and finally to Delhi and communication on telephone at Muzaffarpur from Delhi and United Kingdom are all suggestive of continuance of the offence which formed a chain of events and for that a middle income girls is not supposed to knock the door of court in United Kingdom at her own cost for redressal of her grievances. Argument raised on behalf of the Petitioners that divorce in United Kingdom is also suggestive of the fact that she had no option but to leave the matter of divorce there. But the divorce suit which is still pending in Delhi is suggestive of the fact that she was brutally assaulted by her husband. There is also allegation to the effect that dowry demand as made at Motihari at the time of marriage and again at Muzaffarpur, when the accused-petitioners had been to that place and due to non-fulfilment of demand of dowry, her life became miserable and for that the complainant had to file a case, otherwise no father would go for filing such criminal case when he got a well settled groom in United Kingdom.

15. Having considered the facts and circumstances, I do not find any illegality or jurisdictional error in the backdrop and situations and chain of events merely on the ground that no cause of action arose in the territorial jurisdiction of Muzaffarpur. So, no interference is required in the impugned order specially when costly articles and ornaments worth lacs of rupees were given to the accused-petitioners well within the territorial jurisdiction of Muzaffarpur and there is allegation of breach of trust.

Accordingly, this application is dismissed.