
(2018) 07 MP CK 0173

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.. 11576 Of 2015

Rajesh Kakani & Ors

APPELLANT

Vs

State Of Madhya Pradesh & Anr

RESPONDENT

Date of Decision : 19-07-2018

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 294, 406, 417, 498A, 506

Citation : (2018) 07 MP CK 0173

Hon'ble Judges : Anjuli Palo, J

Bench : Single Bench

Advocate : Satyam Agrawal, Devendra Shukla

Final Decision : Partly Allowed

Judgement

This petition has been filed by the accused persons/applicants under Section 482 of Cr.P.C. for quashing the FIR at Crime No. 84/2015 registered for

offence under Section 498-A, 294, 506 and 34 of IPC by police station, Berasia, District Bhopal.Â Â

2. Applicant No. 2 and applicant No. 3 have died during the pendency of petition. Hence, the petition filed by the aforesaid applicants is abated. The

present petition is being prosecuted by applicants No. 1 and 4 to 9.

3. Applicants alleged that the complainant Nisha / respondent No. 2 was earlier married to one Vivek Mundra. She could not adjust with his family.

She has a child from this wedlock. However, she concealed this fact and got married to applicant No. 1. Marriage was solemnised eight months prior

to the date of incident. She started quarreling with the family members of applicant No. 1 and insisted applicant No.1 to live separately. It was not

possible for applicant No. 1. Â Respondent No. 2 fled from her matrimonial house

with the jewellery. Hence, applicant No. 1 lodged FIR against her and her father on 22.03.2015 under Section 417, 406 and 34 of IPC. It is contended that as counter blast, respondent No. 2 lodged FIR against all the applicants under Section 498-A of IPC, though applicants No. 6 to 9 are not relatives of the applicants No. 1 or respondent No.2.

4. It is alleged by the applicants that police has registered FIR against them without any enquiry or proper investigation, hence, they pray to quash the said FIR. In support of the above contentions, relevant documents have been filed by the applicants.

5. Learned Government Advocate, vehemently opposed the aforesaid contentions and submits that the scope of Section 482 is very limited. Hence, petition is liable to be dismissed.

6. Section 482 makes it crystal clear that the object of exercise of power under this Section as to prevent abuse of process of Court and to secure of ends of justice. There are no hard and fast rules that can be laid down in the exercise the extra ordinary jurisdiction, exercising same as the exception but not a rule of law. It will always depend upon the facts and circumstances of each case to exercise this provision.

7. In the present case, it is mentioned that on 22.03.2015 applicant No. 1 lodged the FIR at police station Kumbhraj District Guna against the respondent No. 2, Pinky and her father. Respondent No.2 suppressed the fact regarding her earlier marriage and that she did not get the divorce decree against her first husband Vivek Mundra. She left the house of applicant No. 1 and took away the gold and silver jewellery.

Hence, police registered offence under Section 417, 406 r/w Section 34 of IPC against respondent No. 2 and her father. Thereafter on 31.03.2015, the respondent No. 2 lodged FIR against all the applicants for demand of dowry and harassment.

8. As contended by the learned counsel for the applicants, first question that arise is, whether respondents No. 6 to 9 fall under the category of relatives, for their prosecution under Section 498-A of IPC. 9. This Court does not find any relationship of respondent No. 2 with applicants No.

6 to 9. An offence in terms of Section 498-A is committed by the persons specified therein. They have to be the husband or his relative.

Either the husband of the woman or his relative must subject her to cruelty

within the aforementioned provisions. In the absence of any statutory definition, the term relative must be assigned a meaning as is commonly understood. Ordinarily, it would include father, mother, husband, or wife, son, daughter, brother, sister, nephew or niece, grandson or grand-daughter of an individual or the spouse of any person. The word "relative" brings within the purview a status; such a status must be conferred either by blood or marriage or adoption.

10. In case of *Vijeta Gajra Vs. State of NCT* (2010) 11 SCC 618, 621, the Hon'ble Supreme Court has held that :

"The word "relative" in Section 498-A of IPC would be limited only to the blood relations and relations by marriage."

11. In the FIR dated 31.03.2015, respondent no. 2 narrated mainly against her husband, father-in-law and mother-in-law with regard to cruelty. She

only mentioned that 3 to 4 persons were along with her father-in-law when she went to her village Berasiya. They do not fall under the category of

"relatives". Similarly, there are only general allegations against her sister-in-law Jyoti and her husband Anil and the applicants No. 6 to 9. It

appears from the documents filed by the applicants that they were residing at a different place.

12. In case of *Geeta Mehrotra Vs. State of UP* AIR 2013 SC 187, the Apex Court held that, "it appears from the FIR that there are no allegations

against the accused except casual reference of their names who have been included in FIR but mere casual reference of the names of the family

members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking

the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in

the matrimonial disputes specially if it happens soon after the wedding."

13. Similarly, in case of *Preeti Gupta Vs. State of Jharkhand & Ors.* AIR 2010 SC 3363, it is held that, when there is no specific allegation in the

complaint against the sister-in-law and other. Appellants are residing at different place nor with the complainant and her husband. Their implication in

the complaint is meant to harass and humiliate husband's relatives. It is permitting complainant to pursue complaint, would be abuse of process of

law. Thus the complaint is liable to be quashed.

14. In case of G.V.Rao Vs. LHV Prasad & Ors. reported as (2000) 3 SCC 693, if material was not sufficient to bring the charge under Section 498-

A of IPC proceedings may be quashed.

15. Hence, in the light of the above principles of law and for the aforesaid reasons, this Court finds applicant No. 4 Jyoti and her husband applicant

No. 5 Anil and applicants No. 6 to 9 were wrongly made accused by the complainant/respondent No. 2. Applicants No. 6 to 9 have been implicated

merely because they happens to be concerned with the applicant No. 1 and his family. Similarly, applicant No. 4 and 5 are the near relatives of the

husband of complainant/respondent No.2. Therefore, under the above circumstances, it would not be proper to compel the aforesaid applicants to face

the agony of criminal proceedings with applicant No. 1 (husband of respondent No. 2.)

16. Accordingly, this petition is partly allowed. FIR registered as Crime No. 84/2015 and proceedings pending in RT No. 499/2015 so far as it relates

to applicants No. 4/Jyoti, applicant No. 5/Anil Kumar Rathi, applicant No. 6/Suresh Kakani, applicant No. 7/Bhagwan, applicant No. 8 Ramswaroop

and applicant No. 9 Banti @ Niranjan are hereby quashed.

They are discharged from the offence under Section 498-A of the Indian Penal Code.