
(2004) 08 JH CK 0093

In the Jharkhand High Court

Case No : Writ Petition (Cr) No. 83 of 2004

Reeta Mishra and Another

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 11-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 120B, 306, 323, 341, 498A

Citation : (2004) 4 Crimes 403 : (2005) 1 DMC 702 : (2004) 4 JCR 119

Hon'ble Judges : Lakshman Uraon, J

Bench : Single Bench

Advocate : Dilip Jerath and S.N. Prasad, for the Appellant; Vandana Singh and JC to GP II, for the Respondent

Final Decision : Dismissed

Judgement

Lakshman Uraon, J.—Petitioners in this Criminal Writ Petition have prayed for quashing the entire criminal proceeding of Complaint Case No. 947 of 2003. lodged under Sections 323, 341, 306, 498A and 120B of the Indian Penal Code as also under Sections 3 and 4 of the Dowry Prohibition Act., pending in the Court of Sri O.P. Singh, learned Sub-Divisional Judicial Magistrate, Ranchi.

2. The allegation, as levelled by the complainant Priya Pandey (Opposite Party No. 2) in the complaint petition against these petitioners and others, is that all the accused persons, named therein, are related, inter se, as husband, dewar, mother-in-law, father-in-law and maternal cousin-in-laws (mousi sas). The complainant was married with accused No. 1 Manish Pandey (not petitioner herein) on 30.5.2002 at Ranchi. Her father paid Rs. 5,51,000/- towards dowry demand and also spent a huge amount in the marriage. Prior to the marriage, on the occasion of ring ceremony on 18.4.2002, these petitioners (mousi sas) and father-in-law of opposite party No. 2 had demanded Rs. 2,00,000/- for jewellery. Anyhow those amounts were also managed by the father of the complainant.

After one year of marriage, mother-in-law and petitioner No. 2 compelled for Maruti Car. Her husband, in a drunken state of affairs, used to assault her. He also demanded Rs. 15,000/- for purchasing cell phone. Due to assault, the complainant sustained injuries and was treated by the local doctor.

3. Learned counsel for the petitioners has submitted that they are distantly related and are living separately with their respective husbands. Since the complainant is suffering from acute female disease and other diseases, her husband filed a suit for divorce in the District Court at Brasat within the State of West Bengal, being Matrimonial Suit No. 1522 of 2003. He has further stated that only to put pressure, after filing of the said suit the complainant has got this complaint case lodged. Petitioner No. 1 has also filed an informatory petition in the Court of learned Chief Judicial Magistrate. Ranchi, on 30.7.2003, stating therein, that the complainant is suffering from severe mental and gynaecological disorder and, as such, she apprehends that a false legal course may be taken at the instance of the complainant.

4. Learned counsel for the petitioners, in course of argument, has submitted that the instant case, lodged by the complainant, dragging the entire family and relatives of her in-laws, including the female members, is nothing, but a matrimonial dispute in which these petitioners have unnecessarily been made accused, who have got no concern with the complainant and her husband. It is further submitted that there is a proceeding u/s 107 of the Code of Criminal Procedure between the parties. Learned counsel for the petitioners has further argued that filing of frivolous cases, implicating all the family members and relatives, has been deprecated by the Apex Court and has relied a case, reported in G.V. Rao v. L.H.V. Prasad and others, wherein, at paragraph No. 12 it has been held that "There has been an outburst of matrimonial deutes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skinnishes suddenly erupt which often assume serious properties resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counseled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts."

He has also relied a case, reported in Kans Raj Vs. State of Punjab and Others, , wherein at paragraph No. 5 it has been held that ".....A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their overenthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased

have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

He has further relied a case reported in *Vithal Tukaram More and Others Vs. The State of Maharashtra*, wherein, at paragraph No. 20 it has been held that "In a sound criminal justice system, such offences against women should not escape unpunished but it is equally desirable in social interest that members of the family of the victim are not made to suffer punishment merely because of their relation with the deceased. It is the duty of the Courts to see that the penal provisions intended to curb such crimes by bringing the offenders to book do not cause injustice to innocent people."

5. It has been further argued on behalf of the petitioners that the complainant is herself suffering from ovarian cyst and her left oviduct has already been removed and another section of right oviduct has been sent for biopsy at Ranchi. The complainant has lodged this case only for the sole purpose to vex and harass the petitioners. Learned counsel has submitted that if the present proceeding is allowed to continue, it will be nothing but an abuse of the process of the Court, resulting into miscarriage of justice.

6. Learned counsel appearing on behalf of opposite party No. 2 (the complainant), who has also filed counter affidavit, has vehemently opposed the submissions, made on behalf of the petitioners, and submitted that both these ladies along with another lady are the persons, giving rise to all these trouble to the complainant. Although these petitioners are maternal cousin-in-laws (mouasis) of the complainant, they are closely associated with the matrimonial family of the complainant. The husband of the complainant was residing with them since his student life. Both the petitioners are closely associated and have active involvement in the family matters. None else but petitioner No. 1 has filed an informatory petition in the Court of learned Chief Judicial Magistrate, Ranchi, on 30.7.2003 (Misc. Petition No. 82 of 2003), alleging therein that the complainant is suffering from several mental and gynaecological disease. None of the other members of the matrimonial house of the complainant, including her husband, felt any need to file any informatory petition, except petitioner No. 1 (mouasis). It has been also submitted that the ingredients of Section 498A of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act are very much applicable against these petitioners, who have played vital role right from the settlement of marriage of the complainant and other ceremonies. Besides that, after marriage they have played villain role in disturbing the marital relations of the complainant. Learned counsel has further submitted that this Court, while disposing of anticipatory bail application of these petitioners, vide A.B.A. No. 295 of 2004, has taken judicial notice of all these facts. The complainant was quite unaware of any matrimonial suit, filed by her husband in the District Court of Brasat, Kolkata. None of the parties is resident of Kolkata. Even though that Court was not having jurisdiction, only to harass the complainant the Matrimonial

Suit has been filed at Brasat, Kolkata. She has further submitted that the authorities relied on by the learned counsel for the petitioners are not applicable in the instant case. On these grounds, learned counsel for opposite party No. 2 has submitted that the criminal proceeding against these petitioners be not interfered with.

7. In the complaint case, the complainant (opposite party No, 2) was examined on solemn affirmation and in course of enquiry u/s 202 of the Code of Criminal Procedure, three witnesses were also examined. The learned Sub Divisional Judicial Magistrate, having considered the evidence of the enquiry witnesses, found that against these petitioners and others prima facie a case u/s 498A of the Indian Penal Code as also 3 and 4 of the Dowry Prohibition Act is made out to proceed with the trial.

8. It is a settled law that when a complaint case is lodged on frivolous ground without any allegation, making out any case, and only to harass the accused persons maliciously, the Court has to see as to whether there is sufficient ground to proceed with the trial and in that case, criminal proceeding can very well be quashed. But when the complaint case, solemn affirmation of the complainant and the evidence of the witnesses, examined in course of enquiry, are considered by the learned Court below and a prima facie case is made out, this Court, in exercise of criminal writ jurisdiction, should not entertain the application for quashing the criminal proceedings. In the present case, I find that both the petitioners have played vital role in settlement of marriage, demand of cash towards dowry and also demand of Maruti car, after marriage. The husband of the complainant was bought up and educated by these petitioners with whom he was staying. Thus, the husband of the complainant is under the influence and clutches of these petitioners. The husband of petitioner No. 1 has also stated that only three ladies, namely, Urmila Pandey (mother-in-law of the complainant) and the maternal cousin-in-laws (petitioners No. 1 and 2) are the root cause to disturb the matrimonial peace in the family.

9. When considered all the submissions, I find that these petitioners are the persons, who have created such circumstances to disturb the matrimonial life of the complainant. From the complaint petition itself it is clear that off and on cash amount was paid; once Rs. 5,51,000.-; again Rs. 2,00,000/- and Rs. 15,000/- were demanded and managed towards jewellery and cell phone; again demand of Maruti car was made. Thus, the lust of money and materials never ended, resulting assault and torture to the complainant, causing some injuries to her for which she was also treated.

10. When considered all these materials, available on record, I do not find any merit in this Criminal Writ Petition to quash the criminal proceeding, initiated against these petitioner, who are maternal cousin-in-laws (mousi sas). Accordingly, this writ application is hereby dismissed.