
(2020) 05 MP CK 0039

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 2066 Of 2018

Rudresh Pratap Singh Alias Golu Rajput And Others

APPELLANT

Vs

State Of M.P. & Others

RESPONDENT

Date of Decision : 11-05-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 482

Indian Penal Code, 1860 — Section 34, 323, 342, 394, 498A, 506

Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2020) 05 MP CK 0039

Hon'ble Judges : S. A. Dharmadhikari, J

Bench : Single Bench

Advocate : Amit Goswami, Upendri Singh

Final Decision : Allowed

Judgement

1. This petition, under section 482 of the Code of Criminal Procedure, has been filed seeking quashment of FIR registered as Crime No. 586/2017 at

Police Station Basoda City, District Vidisha for the offences punishable under sections 498A, 323, 506, 342 read with 34 of the IPC and sections 3/4

of the Dowry Prohibition Act, 1961.

2. Brief facts leading to filing of this case are that petitioner nos.1 to 5 are respectively husband, father-in-law, mother-in-law, Jeth (brothers-in-law),

while petition nos. 6 to 8 are sisters-in-law of respondent no.2/complainant. The FIR was lodged on 9/7/17 against the petitioners stating that marriage

of complainant and petitioner no.1 was solemnized as per the Hindu rites and customs on 27/5/2015. At the time of marriage, parents of respondent

no.2/complainant had given sufficient dowry. However, not being satisfied, immediately after eight days of marriage, petitioners started demanding a

Duster Car and other house-hold articles and also meted out physical and mental cruelty to the complainant. They started beating the complainant, which is evident from her MLC. They beat her with kicks and fists causing injuries on her back and other parts of body. She immediately informed her brother Sunil and when he came, she lodged a report at the Police Station concerned.

3. Learned counsel for the petitioners submitted that petitioners have been falsely implicated. From perusal of the FIR, it is clear that the allegations are omnibus in nature and no specific act has been attributed to any particular individual. The averments in the FIR do not disclose any offence of dowry demand related cruelty. Petitioners are reputed citizens of the locality having no criminal antecedents. They never lodged any report/complaint with regard to demand or cruelty at any point of time earlier. Even otherwise, the allegations made against the petitioners are vague, general and omnibus in nature. It is well established principle of law that near and dear relatives of the husband of complainant should not be prosecuted on the basis of general and omnibus allegations and should be compelled to face the prosecution only when there are serious, direct and specific allegations against them. The allegations against the relatives must be specific and should not be general and omnibus in nature. It is further submitted that petitioner nos. 6 to 8, being married sisters-in-law, are residing separately and they are being falsely implicated as they are near and dear relatives of petitioner no.1. Accordingly, it is prayed that continuance of criminal proceedings against the petitioners is nothing but an abuse of process of law and is liable to be interfered with.

4. Per contra learned Panel Lawyer vehemently opposed the prayer and submitted that a bare perusal of the FIR discloses matrimonial offence by the petitioners. Moreover, trial is at the initial stage and even a small suspicion or material available on record is sufficient to prosecute the petitioners. It is further submitted that the averments made by the complainant in her statement recorded under section 161 of the Cr.P.C., are sufficient to continue with the prosecution. The Apex Court in number of cases has held that even if there is slightest material available on record against the accused, this Court should not exercise extraordinary jurisdiction under Section 482 of the Cr.P.C. As such, no interference is warranted at this stage.

5. Heard, learned counsel for the parties.

6. The Supreme Court in the case of *Kansraj Vs. State of Punjab* reported in (2000) 5 SCC 207, has held as under :

“In the light of the evidence in the case we find substance in the submission of the learned counsel for the defence that Respondents 3 to 5 were roped in the case

only on the ground of being close relations of Respondent 2, the husband of the deceased. For the fault of the husband, the in-laws or the other relations cannot, in

all cases, be held to be involved in the demand of dowry. In cases where such accusations are made, the overt acts attributed to persons other than the husband are

required to be proved beyond reasonable doubt. By mere conjectures and implications such relations cannot be held guilty for the offence relating to dowry deaths.

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 over-enthusiasm 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.”

The Supreme Court in the case of *Monju Roy Vs. State of West Bengal*, reported in (2015) 13 SCC 693, has held as under:

“8. While we do not find any ground to interfere with the view taken by the courts below that the deceased was subjected to harassment on account of non-fulfillment of dowry demand, we do find merit in the submission that possibility of naming all the family members by way of exaggeration is not ruled out. In *Kans Raj*

v. State of Punjab, (2000) 5 SCC 207, this Court observed : (SCC p. 215, para 5)

“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 over enthusiasm 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.â??

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members

may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant

relations. Mere naming of distant relations is not enough to summon them in absence of any specific role and material to support such role.

9. In *Raja Lal Singh vs. State of Jharkhand*, (2007) 15 SCC 415, it was observed : (SCC p. 419, para 14)

â??14. No doubt, some of the witnesses e.g. PW 5 Dashrath Singh, who is the father of the deceased Gayatri, and PW 3 Santosh Kr. Singh, brother of the deceased,

have stated that the deceased Gayatri told them that dowry was demanded by not only Raja Lal Singh, but also the appellants Pradip Singh and his wife Sanjana

Devi, but we are of the opinion that it is possible that the names of Pradip Singh and Sanjana Devi have been introduced only to spread the net wide as often

happens in cases like under Sections 498-A and 394 IPC, as has been observed in several decisions of this Court e.g. in *Kamesh Panjiyar v. State of Bihar* [(2005) 2

SCC 388], etc. Hence, we allow the appeal of Pradip Singh and Sanjana Devi and set aside the impugned judgments of the High Court and the trial court insofar as it

relates to them and we direct that they be released forthwith unless required in connection with some other case.â??

11. The Court has to adopt pragmatic view and when a girl dies an unnatural death, allegation of demand of dowry or harassment which follows cannot be weighed in

golden scales. At the same time, omnibus allegation against all family members particularly against brothers and sisters and other relatives do not stand on same

footing as husband and parents. In such case, apart from general allegation of demand of dowry, the court has to be satisfied that harassment was also caused by all

the named members.â??

The Supreme Court in the case of Chandrlekha & Ors. v. State of Rajasthan & Anr. reported in 2013 (1) UC 155 has held as under:-

â??8. We must, at the outset, state that the High Courtâ??s view on jurisdiction meets with our approval and we confirm the view. However, after a careful perusal

of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to

appellants 1, 2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants. Respondent 2

has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1, 2 and 3 were residing with them at Ahmedabad.

The marriage took place on 9/7/2002 and respondent 2 left her matrimonial home on 15/2/2003 i.e. within a period of seven months. Thereafter, respondent 2 took no

steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against

appellants 1, 2 and 3. It is important to remember that appellant 2 is a married sister-in-law. In our opinion, such extra ordinary delay in lodging the FIR raises grave

doubt about the truthfulness of allegations made by respondent 2 against appellants 1, 2 and 3, which are, in any case, general in nature. We have no doubt that by

making such reckless and vague allegations, respondent 2 has tried to rope them in this case along with her husband. We are of the confirmed opinion that

continuation of the criminal proceedings against appellants 1, 2 and 3 pursuant to this FIR is an abuse of process of law. In the interest of justice, therefore, the FIR

deserves to be quashed insofar as it relates to appellants 1, 2 and 3.â??

The Supreme Court in the case of Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273 has held as under :

4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a

cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives.

The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bedridden grandfathers and

grandmothers of the husbands, their sisters living abroad for decades are arrested. *Crime in India 2012 Statistics* published by the National Crime Records

Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for the offence under Section 498-A IPC, 9.4% more than the

year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally

included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under the Penal Code. It accounts for 4.5% of total crimes

committed under different sections of the Penal Code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A

IPC is as high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal.

In the case of *Preeti Gupta Vs. State of Jharkhand* reported in AIR 2010 SC 3363 it has been held by the Supreme Court as under :

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can

lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these

complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it

is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into

consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never

visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be

scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of

common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the

chances of an amicable settlement altogether. The process of suffering is extremely long and painful.

* *

39. When the facts and circumstances of the case are considered in the background of legal principles set out in the preceding paragraphs, then it would be unfair to

compel the appellants to undergo the rigmarole of a criminal trial. In the interest of justice, we deem it appropriate to quash the complaint against the appellants. As a

result, the impugned judgment of the High Court is set aside. Consequently, this appeal is allowed.

7. In the present case, the allegation is against all the petitioners that immediately after 8 days of marriage, they started harassing the complainant

physically and mentally and demanded dowry. Thereafter, they are alleged to have beaten her badly because of non fulfilment of demand of dowry.

8. Taking into consideration the overall facts and circumstances of the case, the allegations against petitioner nos. 1 to 5 respectively being husband,

father-in-law, mother-in-law and brothers-in-law cannot be ruled out. However, so far as petitioner nos. 6 to 8 are concerned, they are married

sisters-in-law who are living separately. As such, omnibus allegation levelled against them is not sufficient to prosecute them for the offences complained of.

10. In view of the aforesaid, the FIR registered as Crime No. 586/2017 at Police Station Basoda City, District Vidisha and all consequential

proceedings, so far as they relate to petitioner nos. 6 to 8, are hereby quashed. However, the same shall continue in respect of petitioner nos. 1 to 5.

Accordingly, the petition stands allowed in part with no order as to costs.