
(2014) 03 JH CK 0077
In the Jharkhand High Court
Case No : Criminal M.P. No. 270 of 2011

Sajal and Others	Vs	APPELLANT
The State of Jharkhand and Another		RESPONDENT

Date of Decision : 12-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 498A

Citation : (2014) 03 JH CK 0077

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : M.K. Dey and Mr. Pratiush Lala, for the Appellant; P.C. Sinha, Advocate for the O.P. No. 2 and Amresh Kumar, Assistant Public Prosecutor for the State, for the Respondent

Judgement

Rakesh Ranjan Prasad, J.

I.A. No. 5868 of 2013

1. Heard learned counsel appearing for the petitioner and learned counsel appearing for O.P. No. 2 on an interlocutory application bearing I.A. No. 5868 of 2013 whereby prayer prayer has been made to quash the order dated 21.7.2010 under which cognizance of the offence punishable u/s 498A of the Indian Penal Code has been taken against the petitioner. Mr. Dey, learned counsel appearing for the petitioner submits that earlier this application has been filed for quashing of the criminal case, but during pendency of this case, upon submission of the charge sheet, when cognizance of the offence has been taken, that order has been challenged to be bad, by way of this interlocutory application and, therefore, the prayer made in this interlocutory application be allowed to be incorporated in the main application.

2. Prayer, made in the interlocutory application, is hereby allowed. Let this I.A. form part of the main application.

3. I.A. No. 5868 of 2013 stands disposed of.

4. Heard learned counsel appearing for the petitioner and learned counsel appearing for O.P. No. 2.

5. Learned counsel for the petitioner submits that a complaint case bearing C.P. Case No. 251 of 2010 was lodged in the court of Additional Chief Judicial Magistrate Bermo at Tenughat against all the petitioners who happened to be the husband, father-in-law, mother-in-law, sisters-in-law (married) and their husbands, alleging therein that they put-forth the demand of dowry of Rs. 4 lakhs and on account of non-fulfillment of the demand of dowry, they used to subject her to cruelty, but that allegation is specific only against the husband, i.e. petitioner No. 1 and not against the other accused persons and thereby when the married sisters-in-law and their husbands live somewhere-else, it is not expected that they can commit such offences when they have least concerned with the affairs of the wife and husband. Further, submission is that all the overt acts, constituting offence u/s 498A of the Indian Penal Code, have allegedly been committed at Pune and not at the place, territorial jurisdiction of which, the court which took cognizance does have.

6. However, from perusal of the complaint petition, it does appear that the allegation of putting forth the demand of money and car is not only against the husband but also against all the petitioners as it appears from the complaint petition that at number of places it has been stated that all the accused persons put forth the demand and in one particular paragraph even the petitioners name except petitioner nos. 5 & 7 have also been disclosed wherein it has been stated that they, while staying at Pune, used to subject her to assault for getting the demand fulfilled and thereby the submission as has been advanced on behalf of the petitioners that the allegations are omnibus against other accused persons than the husband is not acceptable. Learned counsel appearing for the petitioners also submitted that in similar situation this court in a case of " Janakdeo Prasad, Malti Devi and Dolly Vs. State of Jharkhand and Another, has been pleased to quash the order taking cognizance against the person against whom there was no specific allegation relating to the cruelty after holding that they do not have any concern with the affairs of the wife and husband.

7. But here the facts are somewhat different I have already noted that the specific allegations are there against all the accused persons including sisters-in-law except the petitioners No. 5 and 7 who happened to be the husbands of petitioner No. 4 and 6 respectively. So far as, petitioners No. 5 and 7 namely Rajesh Shrivastav & Abhay Saxena are concerned, I do not find any specific allegation against them and that they according to the petitioners, are the residents of the other places and will have least concerned with the affairs of the wife and husband. In that view of the matter court seems to have committed illegality in taking cognizance of the offence against the petitioners No. 5 and 7.

8. So far other petitioners are concerned, I do find allegation against them and

therefore the court does not seem to have committed any illegality in taking cognizance against these petitioners.

9. Accordingly that part of the order dated 21.7.2010 under which cognizance of the offence has taken against the petitioners No. 5 and 7 namely Rajesh Shrivastava and Abhay Saxena is hereby set aside. In the result this application stands allowed but in part.