
(2022) 03 JH CK 0089

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3131 Of 2021

Sanjay Kumar Poddar And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 10-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 498A

Citation : (2022) 03 JH CK 0089

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Manoj Tandon, Veervijay Pradhan

Final Decision : Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Manoj Tandon, the learned counsel appearing on behalf of the petitioners and Mr.Veervijay Pradhan, the learned counsel appearing on behalf of the respondent State.

2. A notice was issued upon the O.P.No.2 and the notice upon the O.P.No.2 has been effected. On 10.01.2022, on repeated call, nobody has responded inspite of the effective notice upon the O.P.no.2 and with a view to provide one more opportunity to the O.P.No.2, the matter was adjourned and on that date it was directed to be listed on 10.03.2022.

3. Today, when the matter was taken up, nobody has responded on behalf of the petitioners.

4. It appears that O.P.No.2 is not willing to appear as inspite of the opportunity provided to the O.P.No.2, she has not appeared.

5. Accordingly, this petition is being heard in absence of O.P.No.2 and is being disposed of.

6. This petition has been filed for quashing and setting aside the order dated 19.01.2019 passed by the learned ACJM, Bokaro in C.P.Case No.125 of 2014 and also the order dated 30.07.2019 passed by the learned Sessions Judge, Bokaro in Cr.Revision No.70 of 2019 whereby the discharge petition filed by the petitioners has been rejected and the order dated 19.01.2019 has been affirmed.

7. The O.P.No.2 has filed the complaint petition stating therein, in brief, that the marriage of the complainant Urvashi Poddar and accused no.1 Sanjay Kumar Poddar was solemnized on 18.06.1999 as per Hindu rituals at the paternal house of the complainant at Bokaro with consent and in presence of both the sides. The father of the complainant on the occasion of marriage and as per his financial capacity has given 30 bhar (grams) gold in the form of gold jewelry and 50 bhar silver in the form of silver jewelry total amounting to almost Rs.2,00,000/- as well as household things, steel and bronze utensils, watch gold ring and chain, Bajaj scooter etc., total amounting to almost Rs.60,000/- to the accused persons. Further under the pressure of the accused person, the father of the complainant deposited a sum of Rs.1,85,000/- in the account of accused no.1 in his Bank of India, Account No.2683, Bikas Bhawan, Ext. Counter Ranchi on 17.05.1999 and 24.05.1999. Again on 17.05.1999 a sum of Rs.1,00,000/- was deposited in the account of accused no.1 in his Indian Bank, Account No.10243 Sainik Bhawan Market, Ranchi and on 26.05.1999 at the residence of elder brother of accused no.1 namely Pradeep Kumar Poddar at Qtr. No.G.M.-53B, Bokaro Thermal had handed over two bundles of Rs.500 notes. On the occasion of Tilak, the father of the complainant handed over one bundle of Rs.500 to accused no.1. In this way the total amount of Rs.4,35,000/- has been given to the accused persons. On the next day of marriage i.e. 19.06.1999 the complainant after Bidaai went to her matrimonial house where she started living with her husband Sanjay Kumar Poddar, mother in law Tara Devi brother in law Pradip Kumar Poddar and sister in law Mamta Kumari. The reception of the complainant was held on 21.06.1999. The complainant continued living in her matrimonial home with all the tortures made out by the accused persons. At that point of time the accused no.1 and complainant were living in Ranchi and the complainant was continuously tortured by them. That whenever the complainant asked the accused no.1 to get her name registered in his service book, he used to abuse and beat her. In addition to that, he also said that until unless the demands are fulfilled the complainant's name won't be added in his service book. That every time the father of the complainant received a letter from her, he rushed to complainant's matrimonial house to settle the matter, he was insulted and kicked out from the house. The complainant was any how living her life in her matrimonial home when she met a road accident on 10.12.2000, due to which she was hospitalized and all the expenses for the same were borne by her father as accused no.1 clearly denied to spend money for her treatment. That while complainant was recovering at her paternal house at Bokaro the accused no.1 came there and started abusing her and her family members. That the complainant on 14.07.2001, filed a complaint against the accused no.1 through

sanha No.171/2001 in the court of Sub Divisional Officer, Bokaro and a copy of the same was sent to DSP, Bokaro and Police Inspector, City Police Station through letter by complainant's father and the same was received in their office on 18.07.2001. That the complainant stayed normally until Chatth puja festival. On the very next day of Chhatth puja the accused persons beat the complainant. Accused nos.1 and 2 together pressurized and made her write on a revenue stamped blank paper and also beaten her up. The complainant even tolerated these tortures. When she could not any more tolerate then in February, 2002 she informed her father on phone upon which her father in February, 2002 went to complainant's matrimonial home with the police officials Kokar Police Station where the police taken to accused persons. That while the complainant was living at Bokaro, it was found after treatment that due to her accident, there has been a blood clot in her uterus, due to which she was not being able to conceive. The father of the complainant, for the treatment of the same urge for help from the accused but they denied. That several times the father of the complainant as well as the witnesses tried to settle the issue with the accused persons, but again and again the accused persons threatened that if any case is lodged against them, they may lose their life. That the father of the complainant, the witnesses as well as the relatives and friends of the accused persons tried to settled the matter but all in vain and all the attempts failed. That all the efforts by the complainant for the reconciliation went in vain and because of this on 10.05.2013 complainant discussed with her in law and then on 23.06.2013 all accused person went to the house of the complainant at Vastu Vihar, Phase-I and abused her and told her that she was impotent as well as a demanded Rs.2,00,000/-. ON protest of father and mother of the complainant they started jostling and also damaged the household property and told that the complainant was of no use and they will not take her. That on several request of the complaint, her father and relatives the accused nos.1 and 2 and 3 on 27.04.2014 visited to the house of the complainant's father and told that if her father wants that the complaint should stay with the accused then the Bokaro situated house of her father, registered in the name of the accused no.1 otherwise the accused persons will solemnize the marriage of accused no1 with someone else in order to have child. That the complaint then went to Chas Police Station, Bokaro and gave the information of occurrence where she was advised by the Incharge of police station to file a case against the accused persons in Hon'ble Court because of which the complainant is here.

8. Mr. Manoj Tandon, the learned counsel appearing for the petitioners submits that the petitioner no.1 is husband and petitioner no.2 is mother in law who is aged about 82 years. He submits that there are general and omnibus allegations against the petitioners and inspite of that, the petitioners have not been discharged. He further submits that sister in law and brother in law were also made accused, however, the cognizance against them have not been taken and only cognizance has been taken against these petitioners.

9. On perusal of the complaint petition, it transpires that there are allegations of

torture against the petitioner no.1. So far as the petitioner no.2 is concerned, like other accused nos.3 to 6, against whom the cognizance has not been taken, and against petitioner no.2 also only omnibus allegations is there.

10. Accordingly, this Court is not inclined to interfere with the order so far as the petitioner no.1 is concerned, and thus, the prayer made in the petition on behalf of the petitioner no.1 is rejected.

11. Although, this petition has been filed against the revisional order dated 30.07.2019 and if there is not merit in the case it was not required to be decided under section 482 Cr.P.C since on perusal of the records it transpires that not interfering with the impugned orders, it amounts to injustice to the petitioner no.2, this petition has been entertained.

12. Section 498A IPC was inserted with double object against the cruelty by the husband and the relatives of the husband upon the wife.

13. How the bed-ridden parents are being made accused in the cases of section 498A IPC is well known now a days. In the case in hand, it has been stated that the petitioner no.2 is 82 years of age. This aspect of the matter has been considered by the Hon'ble Supreme Court in the case of "Arnesh Kumar v. State of Bihar and Another, (2014) 8 SCC 273 Paragraph no.4 of the said judgment is quoted hereinbelow:

"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."

14. How the cases under section 498A IPC are filed on the heat of the moment

has been discussed by the Hon'ble Supreme Court in the case of "Preeti Gupta v. State of Jharkhand and Ors.", (2010) 7 SCC 667. Paragraph nos. 30, 33, 35 and 36 of the said judgment are being quoted hereinbelow:

"Preeti Gupta v. State of Jharkhand", (2010) 7 SCC 667. Paragraph no.30, 33, 35 and 36 of the said judgment are quoted hereinbelow:

"30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

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."

15. In the case in hand, on perusal of the complaint petition, it is crystal clear that only omnibus allegation is made against all the accused persons except the

husband. In all the paragraphs, the allegations are that all the accused persons have committed the crime. What nature of crime has been committed by the petitioner no.2 is not disclosed in the complaint case and rightly the concerned court has not taken cognizance considering the allegation against the accused nos.3 to 6.

16. In view of the above facts and considering the circumstances and in the absence of any specific role attributed to the accused namely, Tara Devi- petitioner no.2, who is mother in law and is 82 years of age, it will be unjust if she is allowed to go through the trauma of trial. There is only omnibus allegation against the petitioner no.2 in the petition.

17. In view of the above facts, the reasons and analysis, order dated 19.01.2019 passed by the learned ACJM, Bokaro in C.P.Case No.125 of 2014 and also the order dated 30.07.2019 passed by the learned Sessions Judge, Bokaro in Cr.Revision No.70 of 2019 are hereby set aside so far as petitioner no.2 is concerned only.

18. The petitioner no.2 is being discharged of the liability with regard to C.P.Case No.125 of 2014, pending before ACJM, Bokaro is concerned. The Court has not interfered with the order against the petitioner no.1 who is husband of the O.P.No.2.

19. Cr.M.P. No.3131 of 2019 is disposed of in above terms.