
(2003) 04 JH CK 0115
In the Jharkhand High Court
Case No : Criminal Revision No. 15 of 2003

Shyam Sunder Gupta

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-04-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2003) 2 JCR 707 : (2003) 2 DMC 82

Hon'ble Judges : Deokinandan Prasad, J

Bench : Single Bench

Advocate : Baban Lal and Ashok Kumar Sinha, for the Appellant; APP for State and A.K. Kashyap, for O.P. No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Deokinandan Prasad, J.—This revision application has been filed against the order dated 16.11.2002, whereby and whereunder the learned S.D.J.M. Dhanbad passed the order for framing of charge against the accused including the petitioner for the offences u/s 498A, IPC and Section 3/4 of the Dowry Prohibition Act in C.P, Case No. 233 of 1996.

2. One Baby Gupta filed a complaint case alleging therein that she was married with the petitioner on 29.4.1992. At the time of marriage, the parents and relatives of the complainant presented the complainant a sum of Rs. 60,000/- as cash and also the other article such as furnitures, utensils, cloths and other house hold articles. After solemnization of marriage, the complainant went to her sasural. It is further alleged that all the accused persons started torturing the complainant and also started demanding a sum of Rs. 50,000/-in the shape of dowry and due to non fulfillment of the said amount, the complainant was subjected to torture and humiliation in various ways. The complainant also reported the matter to her father, mother and relatives in this respect.

Thereafter, the complaint case was filed.

3. Inquiry was conducted u/s 202, Cr PC and after finding prima facie case, the Court below took cognizance of the offences. Before the charge, witnesses were also examined and on the basis of the evidence collected, the Court below passed the Order impugned for framing the charge. Hence, this revision.

4. The learned, counsel, appearing on behalf of the petitioner, at the very outset, submitted that no offence u/s 4 of the Dowry Prohibition Act is made out and the Court below committed error for taking cognizance of the said offences without sanction, which is mandatory prior to taking cognizance. It is also submitted that Section 3 of the Dowry Prohibition Act is also not made out as the complainant herself admitted to have received the amount and the dowry at the time of marriage as being streedhan property and the witnesses have not supported the prosecution as regards to the torturing.

The learned counsel appearing on behalf of the petitioner also relied upon a case reported in *Rajesh Kumar Kejriwal and Ors. vs. The State of Bihar and Anr.*, (1997) 10 SCC 524 , and submitted that cognizance of the offence u/s 4 of the Dowry Prohibition Act without sanction is bad in law.

5. On the other hand, the learned counsel appearing on behalf of the opposite party No. 2 contended before me that all the witnesses are consistent on the point of demand of dowry of Rs. 50,000/- as well after solemnization of the marriage from the complainant. It is also submitted that after coming into force of the Central Act, 1984, it has been held in the case of *Deo Narayan Lall Das and Ors. v. The State of Bihar and Ors.* 1992 (2) PLJR 560 that sanction does not require for constituting the offence u/s 4 of the Dowry Prohibition Act. It is further submitted that the witnesses examined before the Court below have started torturing of the complainant due to non-fulfillment of the demand.

6. From going through the complaint case, it is apparent that there is a specific allegation against all the accused persons including the petitioner about demand of Rs. 50,000/- and due to non-fulfillment of the said demand, there is also allegation about torturing the complainant in various ways. This fact has consistently been supported by the witnesses examined before the charge as well.

7. The "dowry" has clearly been defined u/s 2 of the Dowry Prohibition Act, 1961, which means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage, or by the parents of either party to a marriage or to any other person, at or before or after the marriage as consideration for the marriage of the said parties.

8. Thus, it is apparent from the evidence itself that a sum of Rs. 50,000/- was demanded by the accused persons including the petitioner from the complainant and due to non-fulfillment of the demand, there is evidence that the complainant

was put under pressure and torture attracting the offence u/s 498A, IPC and also Section 3 of the Dowry Prohibition Act, prima facie, constitute the offence, at this stage. As regards to the offence u/s 4 of the Dowry Prohibition, the question is left open for decision at the time of final hearing of the case on the point of sanction as cognizance for the said offence was already taken much prior to the impugned order and the cognizance order has never been challenged.

9. Considering the above facts and circumstances, I find that the Court below rightly passed the order for framing charge as there appears sufficient materials, at this stage, for framing of charge against the accused persons including the petitioner u/s 498A, IPC and 3/4 of the Dowry Prohibition Act. Having regard to the above facts and circumstances, I do not find any merit in this application, which is accordingly dismissed. Revision dismissed.