

(2013) 12 MP CK 0021

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 2137 of 2013

Smt. Rashida Begum and Others

APPELLANT

Vs

Smt. Fatima Bano and Another

RESPONDENT

Date of Decision : 13-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0021

Hon'ble Judges : D.K. Paliwal, J

Bench : Single Bench

Advocate : Atul Gupta, for the Appellant; B.P.S. Chouhan, Panel Lawyer for the Respondent No. 2/State, for the Respondent

Final Decision : Allowed

Judgement

D.K. Paliwal, J.—This petition has been filed u/s 482 of Cr.P.C. for quashing the order passed by Second Additional Sessions Judge, Shivpuri in Criminal Revision No. 107/2012 dated 10.01.2013, whereby the order passed by J.M.F.C. Shivpuri in Criminal Case No. 148/2010 dated 10.07.2012 framing charges u/s 498-A of I.P.C. against the petitioners have been affirmed. The brief facts of the case are that the respondent No. 1/complainant has filed a private complaint against the petitioners alleging that her marriage was solemnized on 14.06.2004. Her father had given sufficient dowry in her marriage. After marriage her husband Shahid Ali and the petitioners used to demand dowry and torture her. It was further alleged that the petitioners have given beating to the complainant and on 10.01.2009 her husband left her at her parents house and her husband demanded cash of Rupees One Lacks and other articles from father of the complainant. The respondent no. 1/complaint lodged a complaint on 14.01.2009 at Police Station - Dehat, but the Police has not taken any action, hence this private complaint has been lodged. After inquiry the learned Magistrate has taken cognizance against the petitioners and after appearance of the petitioners recorded the evidence before charge and vide order dated 10.07.2012 framed charges u/s 498-A of I.P.C. against the petitioners and also against Shahid Ali u/s

495 of the I.P.C. The petitioners have challenged the order before the Second A.S.J. Shivpuri, but their Revision Petition has been dismissed. Being aggrieved this petition has been preferred.

2. It is submitted by the learned Counsel for the petitioners that the allegation levelled in the complaint are false and concocted. The behaviour of the complainant was not cordial from the very inception of the marriage. The husband of the complainant has filed a divorce petition in the year 2008 in the Family Court Gwalior. It is further submitted that the petitioners have never demanded any dowry and harassed the complainant. Hence, prayed the order passed by the learned Additional Sessions Judge Shivpuri dated 10.01.2013 passed in the Criminal Revision No. 107/2012 be quashed.

3. None appeared for the respondent No. 1/Complainant despite service of notice.

4. The learned Counsel for the respondent No. 2/State has submitted that the learned Additional Sessions Judge has not committed any illegality in affirming the order of framing the charge because prima facie material is available against the petitioners, hence prayed for rejection of the petition.

5. I have perused the submissions of the learned Counsel for the parties and perused the record.

6. From the perusal of the complaint filed by the respondent No. 1/complainant, it appears that it is alleged in para-2 that one washing machine and dining table has not been given in the dowry. Husband of the complainant demanded cash of Rupees One Lacks, when the complainant stated that her father has retired and he is not able to give the cash, then her mother-in-law, sister-in-law, Jeth, Jethani and Dewar asked for dowry and exhorted her husband to beat the complainant. In para-6 also the complainant has alleged regarding demand of dowry and cruelty by the petitioners. In para-8, it is alleged that on 10.01.2009 her husband took her to her parents house and demanded dowry from her father and when father of the complainant expressed his inability, her husband has caught hold of the collar of her father and pressed neck.

7. It is pertinent to mention that the marriage of the complainant took place on 14.06.2004. There is no specific allegation against the petitioners regarding demand of dowry. The allegation is only against the husband for demand of cash of Rupees One Lacks for starting the business. Had really the petitioners who are mother-in-law, sister-in-law, Jeth, Jethani and Dewar demanded the dowry from the complainant there was no reason for not making any complaint against the petitioners before the Police or calling any Panchayat. The complainant remained mum up to 14.01.2009.

8. It is also pertinent to mention that in the alleged incident dated 10.01.2009 the allegation of demand of dowry has been made only against the husband and not against the petitioners.

9. The Hon"ble Apex Court in the case of Preeti Gupta and Another Vs. State of

complaint has been lodged anywhere. It seems that the petitioners who are mother-in-law, sister-in-law, Jeth, Jethani and Dewar of the complainant has been involved in the case with an ulterior motive for wracking vengeance on the petitioners. If the criminal proceedings on the basis of such private complaint is allowed to continue the petitioners shall be subjected to harassment of illegal prosecution which shall amount an abuse of the process of the Court. Consequently, it is necessary to quash the proceedings to secure the ends of justice. The petition is therefore allowed and impugned order dated 10.01.2013 passed in Criminal Revision No. 107/2012 affirming the order dated 10.07.2012 of framing the charge u/s 498-A of I.P.C. against the petitioners is hereby quashed.