
(1990) 08 P&H CK 0088

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 4608-M of 1989

Sudarshan Kumar and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 09-08-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 406, 498A

Citation : (1991) 1 DMC 109 : (1990) 2 RCR(Criminal) 576

Hon'ble Judges : A.P. Chowdhri, J

Bench : Single Bench

Advocate : D.N. Rampal, K.S. Jetely, for the Appellant; M.M. Chawdhary and, for the Respondent

Judgement

A.P. Chowdhari, J.—Briefly, the material facts are that Sudesh Rani respondent No. 3 was married to Krishan Lal on November 25, 1984 at Rajpura. After the marriage, the couple lived at Patiala alongwith the in-laws of Sudesh Rani. Diwan Chand and Smt. Sham Pyari are the parents of Krishan Lal. Sudarshan Kumar and Sheela Devi are brother and sister-in-law of Krishan Lal and Amar Nath is the father of Sheela Devi. Krishan Lal died on February 13, 1989. Sudesh Rani went to her parents' house at Rajpura in accordance with custom after some days of the death of her husband and when she came back, she is stated to have been turned out of the house by the aforesaid relations of the husband. She was, thus, denied her right to live in the family house as also her stridhan property which was lying in the house. She filed a complaint, Annexure P-I, under Sections 406 and 498A read with Section 34, Indian, Penal Code, against the aforementioned relations of the husband on May 2, 1989. It was forwarded by the Judicial Magistrate 1st Class, Rajpura, to the Police u/s 156(3) of the Code of Criminal Procedure. The complainant Sudesh Rani produced some documents before the police and a case for the aforesaid offences was registered at Police Station Rajpura on May 12, 1989, on the basis of the said complaint. The present petition u/s 482 of the Code of Criminal Procedure for quashing the aforesaid

complaint was filed on June 14, 1989, i.e., about one month after the registration of the case.

2. According to the complaint, the articles mentioned in the list attached with the complaint as Annexure "A" were Istridhan of the complainant and the same had been entrusted .to Diwan Chand, his wife Smt. Sham Pyari and his son Sudarshan Kumar at the time of marriage at Rajpura in November 1984. After the death of the complainant's husband, when she went back to her in-laws" house after spending a few days at her parental house on March 18, 1989, she was turned out of the house and was net allowed to take away any of those articles. A demand for the return of the Istridhan articles produced no result. It was further alleged that the action of the accused persons, including father-in-law of Sudarshan Kumar, who had played a leading role in inflicting mental cruelty on the complainant in driving the complainant to utter destitution amounted to cruelty defined in Section 498A, Indian .Penal Code. It was, therefore, prayed that a case be got registered against the accused and they may be punished according to law.

3. The main grounds for seeking quashing of the complaint are that the entire family of Diwan Chand had been roped in, that the allegations made in the complaint did not constitute an offence u/s 498A, Indian Penal Code, that Rajpura police had no territorial jurisdiction, that no specific allegations had been made and that the facts mentioned in the complaint disclosed, if at all, a dispute of a civil nature and resort to criminal proceedings was an abuse of the process of the Court.

4. A detailed reply was filed by Sudesh Rani respondent. It was stated that in Annexure "A" filed with the complaint, it was specifically mentioned that a cash sum of Rs. 20.000/- was given to Diwan Chand on November 25, 1984, after withdrawing the same from "bank account by father of the complainant. This was for purchasing furniture in connection with the dowry. The articles mentioned in the annexure had been entrusted to petitioners 1, 3 and 5 at the time of marriage. It was further stated that the allegations made in the complaint did constitute an offence u/s 498A inasmuch as the complainant was thrown on the road over night. Moreover the documents Annexures R-1 ,to R-3 produced before the police disclosed the commission of offence u/s 498A, Indian Penal Code.

5. A reply was also filed on behalf of Respondents 1 and 2 by the Station House Officer, Police Station, Rajpura. The material averments made in the petition were controverted on the basis of the investigation carried Out so far.

6. It is not disputed that the facts alleged in the complaint clearly disclose an offence u/s 406, Indian Penal Code. Having regard to the definition of the word "cruelty" in Section 498A, Indian Penal Code, it cannot be said that the facts alleged and the material filed with the complaint does not constitute the said offence. In other words, this is not a case in which the continuance of the proceeding can possibly be described as an abuse of the process of the Court.

The articles having been allegedly entrusted at Rajpura and their return having been demanded there, prima facie the police at Rajpura has territorial jurisdiction. It cannot possibly be argued that the dispute is of a civil nature. The mere fact that all the members of the family have been arrayed as accused is no reason by itself to hold that the institution of these proceedings is an abuse of the process of the Court. It may be pointed out here that the case was registered on May 12, 1989, and before the investigation could make substantial progress, the petitioners rushed to this Court by way of this petition. It is thus not a case in which the investigation may have failed to collect any evidence and the pendency of the proceedings over an unreasonably long period may itself be a cause of harassment.

7. For the foregoing reasons, there is no merit in this petition. It is accordingly dismissed.

8. Parties are directed to appear in the trial Court on August 20, 1990, for further proceedings according to law.