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Poonam Singh Vs. State and ors.

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Court : Delhi

Decided On : Aug-22-2013

Judge : Suresh Kait

Appellant : Poonam Singh

Respondent : State and ors.

Advocate for Pet/Ap. : Ms. Malvika Rajkotia

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment reserved on :9th May, 2013 Judgment delivered on:

22. d August,2013 % + CRL.M.C. No. 1604/2007 & Crl. M.A. No. 5582/2007 (for stay) POONAM SINGH ..... Petitioner Through: Ms. Malavika Rajkotia and Mr.Chetanya Puri, Advocates with Petitioner in person. Versus STATE & ORS. ..... Respondents Through: SHO Rajender Gautam, P.S. Alipur for Respondent No.1. Mr.V.K.Malik, Mr. Rahul Raj Malik and Mr. Rajeev Chauhan, Advocates. AND + CRL.M.C. No. 2751/2007 & Crl. M.A. No. 9723/07 (for stay) NARENDER SINGH SALKAN Through: ..... Petitioner Ms. Malavika Rajkotia and Mr.Chetanya Puri, Advocates with Petitioner in person. Versus STATE & ORS. Through: ..... Respondents SHO Rajender Gautam, P.S. Alipur for Respondent No.1. Mr.V.K.Malik, Mr. Rahul Raj Malik and Mr. Rajeev Chauhan, Advocates. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

Crl. M.A. Nos. 18903 & 18904/2011 (both for adjournment) in CRL.M.C. Nos. 1604 & 2751 of 2007 Dismissed as infructuous. Crl. M.A. No. 6584/2012 (for expeditious disposal) in CRL.M.C. No. 2751/2007 Vide the instant application, the applicant/petitioner has sought expeditious disposal of the instant petition. As the aforementioned petitions are taken up for final disposal, the instant application stands disposed of. CRL.M.C. Nos. 1604 & 2751 o

1. The present petitions are filed by the father-in-law and sister-in- law of the complainant/respondent No.2 for quashing the charge sheet relating to FIR No. 127/03 under Sections 498-A/406/34 of the Indian Penal Code, 1860 (IPC), Police Station Alipur, Delhi.

2. As the facts and issues in both the petitions are same, therefore, this Court has decided to dispose of the aforesaid petitions by this common judgment.

3. Brief facts of the case are that the complainant/respondent No.2 Ms. Reema Singh married with Sh. Sumer Singh Salkan on 24.03.2002 according to Hindu rites and rituals. The said marriage was an arranged marriage and through a Newspaper advertisement. Though it is stated in the petitions that they knew the complainants family as her elder sister was married in Meerut and thus, visited Meerut quite often. The son and brother (bridegroom) of the petitioners was working and residing in Canada and for the purpose of marriage he came to India and stayed only four days after his marriage. Finally, he left for Canada on 28th/29th March, 2002. On the same evening, the complainant/respondent No.2 left with her brother and sister after seeing off her husband from the Airport itself.

4. Admittedly, the complainant/respondent No.2, Smt. Reema Salkan did not accompany her husband as she did not have the requisite spouse visa and at that point of time there was no facility of converting tourist visa into a spouse visa in Canada.

5. The complainant/respondent No.2 was to join her husband after obtaining the passport and completing necessary formalities regarding her spouse visa, pursuant to her husband sponsoring her which was done by the husband from Canada.

6. In the first week of May, 2002, the complainant/respondent No.2 along with her father visited Meerut and spent few hours for the purposes of police verification. They both left after having lunch. Thereafter, the complainant/respondent No.2 visited her-in-laws at Meerut from 25.06.2002 to 14.07.2002 and finally from 08.08.2002 to 10.08.2002. Thus, her total stay with her-in-laws was for a period of around 20 days only after the departure of her husband to Canada, till 10.08.2002.

7. It is stated in the petitions that after the first four days of the marriage, i.e., after 28th/29th March, 2002, the petitioners had no occasion to meet the complainant/respondent No.2 as she continued to be with her parents.

8. It is pertinent to mention here that, subsequently, some differences have cropped-up between the complainant/respondent No.2 and her husband due to which the husband withdrew his request for sponsoring her as his wife from Canadian Embassy on 24.09.2002. They tried to pacify both of them but efforts for conciliation did not yield the desired results as the complainant/respondent No.2 as well as her husband was not prepared to listen to the advice of anyone.

9. The parents being aged were left with no option but to disown their son and daughter-in-law through a Newspaper publication on 25.10.2002 by stating that they had nothing to do with the matrimonial acrimony and did not desire any disturbance in their peaceful life, copy of the same is annexed as Annexure-C. On 20.12.2002, parents-in-law of the complainant/respondent No. 2 sent a legal notice through their lawyer to both of complainant/respondent them, No.2, i.e., their Sumer son and Singh and the daughter-in-law respectively. Copy of the legal notice is annexed as Annexure-D.

10. On 08.01.2003, Reema Salkan, respondent No. 2 sent a reply in response to the said legal notice through her Advocate and first time alleged harassment, cruelty and intimidation by her mother-in-law, obviously to give it colour of a dowry harassment case. Copy of the letter dated 08.01.2003 is annexed as Annexure-E.

11. The in-laws of the complainant/respondent No.2 also sent a reply dated 18.02.2003; same is annexed as Annexure-F. Thereafter, learned counsel for the complainant sent a reply to 06.03.2003 to the aforesaid counter-reply dated

18.02.2003 which is annexed as Annexure-G.

12. As stated in the petitions, till that time there were no allegations against the petitioner Poonam Singh as her name was not even mentioned in the said correspondences. The complainant made a complaint to the Crime Against Women Cell (for short CAW Cell) giving a complete different story. The said complaint could not be resolved, therefore, the police registered the FIR as mentioned above on 22.04.2003.

13. It is pertinent to mention the common grounds in both the petitions are that initially the name of the petitioners did not figure in any of the correspondence and their names have been added subsequently. The allegations are not specific on the basis of which the charge sheet has been filed. The same is a figment of the complainants imagination. Even, a perusal of the statement, recorded under Section 161 Cr.P.C. in support of the charge sheet, clearly shows that the names of the petitioners have been introduced only with a view to falsely implicate them. The allegations in the complaint with CAW Cell are completely baseless and have been introduced for the first time only with a motive to harass the petitioners to settle the score with her husband.

14. The complainant/respondent No. 2 is a highly qualified woman with a post graduate degree and Diploma in Journalism with years of experience in Journalism since 1995. Her father is a Professor at Delhi University, mother is a Doctor and brother is an IPS Officer. Considering her educated background and her own qualifications, she would have reported the matter to the police and not suffered the atrocities, if any, in silence, for the whole year. The petitioners had no occasion to interact with the complainant/respondent No. 2 beyond the first four days immediately after the wedding. The complainant left for her parents house on the intervening night of 28th /29th March, 2002 straight from the Airport itself when her husband left for Canada. There had been no physical contact between the petitioners and the complainant/ respondent No.2 which could have been resulted into the incident, as stated in the FIR.

15. Ms. Malvika Rajkotia, learned counsel for the petitioners, has submitted that the present petitions have been filed by the sister-in-law and father-in-law of the

complainant/respondent No. 2 in 2007, six years have passed. Both the parties had agreed in the court of Shunali Gupta, Metropolitan Magistrate, Rohini, Delhi, as recorded in its order dated 24.05.2011 that the trial in the matter would not proceed until the present petitions are decided by this Court.

16. She further submitted that the main allegations in the FIR are against the mother-in-law and the husband. Both of them have not filed any petition for quashing of the FIR. Therefore, this Court has to restrict to the nature of the case and allegations made against the petitioners herein.

17. She submitted that in times when Section 498-A IPC is coming under criticism as a subject of misuse, it is important for this Court ought not to look at the FIR in a cursory manner but look at it in the context of the conduct of the parties as is apparent from the undisputed documents. Thus, it is not just the FIR but the surrounding documents to be read to go to the root of the controversy and to see whether the FIR is an afterthought of respondent No.2, only to harass her in-laws and extort huge financial settlement, after all the misuse of this provision is harassment. Thus, she has unnecessarily roped in the father-in-law and the sister-in-law (petitioners herein) when even in the FIR; she herself is unable to make out a cogent case against them except some bald averments.

18. Learned counsel submitted that in the present case some of the documents have to be looked into, which are discussed inter alia. Vide legal notice dated 20.12.2002, issued by the complainants parents-in-law, they disowned their son and daughter-in-law, i.e., the husband of the complainant and complainant herself. This document was necessitated when the complainant threatened her in-laws that they would be in serious trouble with the police if their son did not responsor her immigration to Canada. Para 5 of this letter mentioned that a sum of Rs.1,00,000/- which was gifted in the engagement ceremony was deposited in the personal Bank account of the complainant/respondent No. 2 in Punjab National Bank, Meerut by her father-in-law (petitioner in Crl. M.C. No.2751/2007) with the knowledge and consent of the complainant. Para 14 of this letter mentioned that the jewellery of the complainant/respondent No. 2 had been returned to her by her mother-in-law and also that the complainant had in fact visited the Bank with her

mother-in-law, who operated the Bank locker.

19. The complainant/respondent No.2 replied through her counsel to this notice by her letter dated 08.01.2003, wherein contents of para 5 mentioning deposit of Rs.1,00,000/-, the sagan money is not disputed. With regard to the return of jewellery, the complainant not only stated but reaffirmed that her mother in-law only handed over the jewellery which was gifted to the complainant by her parents and not handed over her stree dhan, i.e., the jewellery given to her by her parents-inlaw.

20. Learned counsel further submitted that the complainant/respondent No.2 nowhere alleged about beating by her father-in-law or sister-in-law or even the mother-in-law in her letter dated 08.01.2003. In fact, the name of the sister-in-law (petitioner in Crl. M.C. No.1604/2007), who was living in Mehrauli area and looking after her small school going children has not even been mentioned by the complainant anywhere in these letters. Nor she has mentioned in her letter dated 26.01.2003, which is a part of the FIR.

21. Learned counsel submitted that four pages hand written letter was sent by the complainant/respondent No.2 by registered post, which was written only five weeks before she filed a false complaint with the police on 06.03.2003. In the said letter, the complainant/respondent No. 2 has admitted that till 10.08.2002, all was well. receiving sweet greeting cards from her husband. She was Long after 10.08.2002, she was still in touch with her father-in-law. In the said letter, no complaint whatsoever was made against her husband or against any of her in-laws. In fact, name of her sister-in-law (one of the petitioners herein) was not even mentioned therein. This letter absolves her husband and her in-laws of all false allegations made by her before 11.08.2002, i.e., of her hair being pulled, beaten repeatedly, demand for lancer car, Rs.20 lakhs, Rs.10,000/- gold set and gold chain.

22. In her reply dated 08.01.2003, in paras 6 to 9, the complainant/respondent No. 2 has submitted that:the contents of para 6, 7, 8 & 9 need to reply except to say that my clients visited her parents to complete her paper work for immigration to Canada and also to avoid bothering her father in law to accompany her to Delhi

and Ghaziabad a number of times. Her stay in Delhi was also required to pay numerous visits to Canadian High Commission and even to get new Passport. It is wrong and denied that my clientess left for her parental home and did not stay with your clients despite requests by them. Learned counsel submitted that this implies, as far as the complainant/respondent No. 2 was concerned, all was fine with the petitioners.

23. She further submitted that if a proper investigation has been carried out, these discrepancies would have been brought to the attention of the Investigating Officer, who would have either filed a closure report or at least would not have arrayed the petitioners as an accused.

24. It is pertinent to mention here that this Court in W.P. (Crl.) No. 1315/2008, titled Sumer Singh Salkan Vs. Asst. Director & Ors, filed by the husband of the complainant/respondent No.2, seeking quashing of the Red Corner Notice issued at the behest of the Delhi Police, on the basis of the complaint made by the complainant, has observed as under: It is apparent that the LOC and RCN were issued for extraneous reasons by an officer who was not authorized. The petitioner has also highlighted the difference in statements made by witnesses on different occasions. Since the matter pertaining to these offences is subjudiced, it will not be appropriate to comment on this aspect but suffice it to say that the action against the petitioner for issuing RCN was uncalled for in view of the fact that neither offence, for which the petitioner is facing trial in India, is an extraditable offence, nor any request for extradition of the petitioner has been made for the last 7 years despite knowing whereabouts of the petitioner. I, therefore, consider it a fit case for quashing the RCN issued against the petitioner at the behest of Delhi Police. The RCN, is therefore, hereby quashed.

25. Learned counsel submitted that the present case is a sheer misuse of the provisions mentioned under Sections 498-A/406 IPC. The said provision was meant for the protection of women and it should not be used against the innocent persons and against the woman herself. One of the petitioners herein is a woman, who has nothing to do with the allegations as she is staying separately with her husband and children and looking after her family. The father-in-law (another

petitioner) of the complainant/respondent No. 2 is a retired officer, leading a retired life and had no occasion to interact with the complainant/respondent No.2 and the allegations made in the complaint is an afterthought just to harass the petitioners and extort money from them.

26. She further submitted that in such eventuality, the charge sheet has to be quashed as this Court has power under Section 482 of the Code of Criminal Procedure.

27. To strengthen her arguments, learned counsel for the petitioners has relied upon a case of Manoj Mahavir Prasad Khaitan Vs. Ram Gopal Poddar & Anr. 2010 (11) Scale 59, wherein the Supreme Court has observed as under:11. It was pointed out that the criminal revision against the issuance of summons was withdrawn. We were, therefore, taken to the High Court's judgment, where the High Court has found itself to be powerless in view of the withdrawal of the criminal revision and had advised the parties to go back to the revisional Court and get it restored. We do not think that the High Court was justified in advising the appellant to go back to the Sessions Judge and to get the criminal revision revived without going into the question whether such revision could have been revived in law or not. We observe that the High Court was not powerless. The High Court itself was exercising its jurisdiction under Section 482 Cr.P.C., where the High Court could pass any order in the interests of justice. This power was available only to the High Court in contradistinction to the Sessions Judge who was only entertaining the revision application of the appellant under Section 397 Cr.P.C. The High Court should have, therefore, applied its mind to the fact situation. It should have been realized that the complaint was wholly covered under the 7th circumstance in the case of State of Haryana and Ors. v. Bhajan Lal and Ors. (cited supra), which is as under:

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. It was also covered under 3rd circumstance in the case of State of Haryana and Ors. v. Bhajan Lal and Ors. (cited supra), which suggests:

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused. We reiterate that when the criminal Court looks into the complaint, it has to do so with the open mind. True it is that that is not the stage for finding out the truth or otherwise in the allegations; but where the allegations themselves are so absurd that no reasonable man would accept the same, the High Court could not have thrown its arms in the air and expressed its inability to do anything in the matter. Section 482 Cr.P.C. is a guarantee against injustice. The High Court is invested with the tremendous powers thereunder to pass any order in the interest of justice. Therefore, this would have been a proper case for the High Court to look into the allegations with the openness and then to decide whether to pass any order in the interests of justice. In our opinion, this was a case where the High Court ought to have used its powers under Section 482 Cr.P.C.

12. In view of the fact, we ordinarily would have sent the matter back to the High Court, but there is no point now in remanding the matter back to the High Court in view of the pendency of this matter for last six years. In that view, we allow this appeal, set aside the order of the High Court and quash the criminal proceedings started by the respondent No. 1 vide criminal case No. 194 of 2005.

28. In the case of Preeti Gupta and Anr. Vs. State of Jharkhand and Anr. (2010) 7 SCC 667.it has been held as under:

18. The powers possessed by the High Court under section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution but court's failing to use the power for advancement of justice can also lead to grave injustice.

19. The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true

perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage. xxx xxx xxx xxx 32. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber 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 fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

29. She also relied upon the case of Smt. Sangeeta Kalra Vs. State 2007 (2) JCC 881.wherein this Court has held as under:

4. It seems that the complainant, who left the matrimonial home due to failure of physical relationship and resultant dissatisfaction, later on thought of implicating every member of the family in an anti-dowry and cruelty case. Initially, she made vague allegations against everybody and thereafter made a supplementary statement under Section 161 Cr. P.C. supplementing her earlier statement. In the supplementary statement it is stated that her father spent more than Rs. 22,00,000/- on her marriage while there was no such claim made by her father even in his own complaint made to the police on 24.6.1999.

5. It is true that while considering the quashing of criminal proceedings under Section 482 Cr. P.C, the Court should not embark upon an enquiry into the truthfulness of the allegations made by complainant but where the charges are framed by the lower court without considering the material, with closed mind and charges amount to gross misuse of criminal justice system and trial is an abuse, it becomes the duty of the High Court to intervene in such cases, under Section 482 Cr. P.C so that there is no miscarriage of justice and faith of people remains intact in the judicial system. In this case, charges have been framed against the petitioner, sister of the husband, without their being an iota of evidence of any cruelty or entrustment of any property by the complainant in the initial complaint or in the later complaint. Even in subsequent complaint made by the complainant herself there are no specific allegations and only vague allegations are there involving every family member. xxx xxx xxx xxx 8. I consider that while framing charges, the Trial Court must take into account the entirety of the case, all documents which are brought to its notice including the correspondence between the parties and thereafter should decide whether there was case made out or the court was being used as a tool. I consider it is a fit case where criminal proceedings against the petitioner be quashed. I, therefore, hereby quash criminal proceedings against the petitioner under Sections 498A/406/34 IPC, in FIR No. 518/2000 Police Station Shalimar Bagh, Delhi.

30. In Onkar Nath Mishra & Ors. Vs. State (NCT of Delhi) & Anr. 2008 II AD (SC) 398, wherein it has been held as under:

18. In the present case, from a plain reading of the complaint filed by the complainant on 8.11.1994, extracted above, it is clear that the facts mentioned in the complaint, taken on their face value, do not make out a prima facie case against the appellants for having dishonestly misappropriated the Stridhan of the complainant, allegedly handed over to them, thereby committing criminal breach of trust punishable under Section 406 I.P.C. It is manifestly clear from the aforeextracted complaint as also the relevant portion of the charge- sheet that there is neither any allegation of entrustment of any kind of property by the complainant to the appellants nor its misappropriation by them. Furthermore, it is also noted in the charge-sheet itself that the complainant had refused to take

articles back when this offer was made to her by the Investigating Officer. Therefore, in our opinion, the very pre- requisite of entrustment of the property and its misappropriation by the appellants are lacking in the instant case. We have no hesitation in holding that the learned Additional Sessions Judge and the High Court erred in law in coming to the conclusion that a case for framing of charge under Section 406 I.P.C. was made out. xxx xxx xxx xxx 20. Consequently, we allow the appeal partly; quash the charge framed against all the appellants under Section 406 I.P.C.; quash the charge framed against appellant Nos. 1 and 2 under Section 498A I.P.C. and dismiss the appeal of appellant No. 3 against framing of charge under Section 498A I.P.C. Needless to add that the trial court shall now proceed with the trial untrammelled by any observation made by the Additional Sessions Judge and upheld by the High Court in the impugned order or by us in this judgment.

31. On the other hand, learned counsel for the complainant/respondent No. 2 has submitted that her NRI husband and his parents gave a rosy picture to the family of the complainant for her living comfortably with a well-placed husband which claims are discovered to be false. She was lured into marriage by assurance of arrangements for her to leave along with her husband. The said husband very conveniently left behind her on the pretext that she will be called when marriage visa will be sanctioned. This happened due to wilful and well-planned abandonment of the bride, which is the common punishment meted out as a consequence. This is more often done by preventing the bride from reaching her husband by preventing her from getting a visa, and eventually by obtaining ex parte decree of divorce in the host country. It is noteworthy that due to the case with which the perpetrators escape the consequences of their illegalities, this scourge has spread across all classes and regions irrespective of the educational, professional and financial status of the parties.

32. Learned counsel further submitted that the present respondent No. 2 after becoming a victim of marriage, fraud and torture was forced to initiate legal action against her NRI husband and in-laws after giving them one whole year to realize the futility of violence.

33. The entire stree dhanincluding cash, wedding sarees, jewellery, silverware and numerous gifts- which were, in good faith, handed over by the complainant/respondent No. 2 to her in-laws for safe keeping as any bride unfamiliar with her new matrimonial home and its customs does, was misappropriated by the respondents parents-in-law and sister-in-law, who was an active perpetrator of cruelty and torture and misappropriated her stree dhan and sarees given to her on engagement.

34. Learned counsel further submitted that on 25.06.2002 the complainant/respondent No. 2 returned to her matrimonial home in Meerut with Rs.15,000/- equivalent to $500 as demanded by the inlaws who claimed that the amount had been spent by their son on filing the migration papers on 12.06.2002. Even an account was opened in the name of the respondent with Rs.One Lakh in PNB, Meerut. This being the first pro-active attempt at creating false evidence by a family full of veteran and chronic litigants, just in case an educated daughterin-law refuses to accept violence perpetrated on her for extracting more and more dowry. The cheque book and passbook were immediately taken away by the petitioners and were later seized by the police, which is recorded in the seizure memo dated 03.05.2003.

35. Learned counsel submitted that during the second stay at her matrimonial home, the complaint/respondent No. 2 faced unspeakable cruelty at hands of her father-in-law, mother-in-law and sister-in-law, who constantly visited Meerut. The respondents dignity and confidence were shattered as she was hit on two occasions by all three for refusing to bring any further cash from her parents, besides the demand of Rs.20 lakhs.

36. It is pertinent to note that even out of sheer vengeance and frustration, the petitioner filed an application under Section 340 Cr.P.C. in May, 2005 against the complainant/respondent No. 2 in the Family Court, Meerut. This vindictive act was dismissed vide order dated 13.03.2007 as misuse of the process of law in order to satisfy his ego.

37. Learned counsel further submitted that although as per the settled law, evidence including legal notices exchanged between the parties cannot be looked

into for the purpose of quashing the criminal proceedings, yet respondent has been forced to refer to the same in order to expose the bald falsehood being parroted by the petitioners herein.

38. To strengthen his arguments, learned counsel has relied upon a case of State of Orissa Vs. Debendra Nath Padhi, (2005) 1 SCC 568.wherein the Supreme Court has observed as under:11. In State of Bihar v. Ramesh Singh,1977 Cri LJ 160., considering the scope of Sections 227 and 228 of the Code, it was held that at the stage of framing of charge it is not obligatory for the Judge to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. At that stage, the court is not to see whether, there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion, at the initial stage of framing of charge, is sufficient to frame the charge and in that event it is not open to say that there is no sufficient ground for proceeding against the accused.

12. In Superintendent and Remembrancer of legal Affairs, West Bengal v. Anil Kumar Bhunja and Ors. 1979 Cri LJ 13., a three-judge Bench held that the Magistrate at the stage of framing charges had to see whether the facts alleged and sought to be proved by the prosecution prima facie disclose the commission of offence on general consideration of the materials placed before him by the investigating police officer (emphasis supplied). Though in this case the specific question whether an accused at the stage of framing of charge has a right to produce any material was not considered as such, but that seems implicit when it was held that the Magistrate had to consider material placed before it by the investigating police officer.

13. In State of Delhi v. Gyan Devi and Ors. (2000) 8 SCC 239.this Court reiterated that at the stage of framing of charge the trial court is not to examine and assess in detail the materials placed on record by the prosecution nor is it for the court to consider the sufficiency of the materials to establish the offence alleged against the accused persons.

14. In State of Madhya Pradesh v. S.B. Johari and Ors. (2000) 2 SCC 57.it was held that the charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted, cannot show that the accused committed the particular offence. In that case, there would be no sufficient ground for proceeding with the trial.

15. In State of Maharashtra v. Priya Sharan Maharaj and Ors. (1997) 4 SCC 393.it was held that at Sections 227 and 228 stage the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

39. He has also relied upon the case of Central Bureau of Investigation Vs. Ravi Shankar Srivastava, IAS and Anr., 2006 CRL. L. J.

4050, wherein the Supreme Court has held as undere:- 7. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The Section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of

administration of justice on the principle "quando lex aliquid alicui concedit, conceder videtur et id sine quo res ipsae esse non potest" (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

8. In R.P. Kapur v. State of Punjab (AIR 196.SC

866) this Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings. (i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction; (ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged; (iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

40. Learned counsel has submitted that the petitioners, his wife and accused husband of the complainant/respondent No. 2 chose not to apply for anticipatory bail until 2010 with the sole purpose of crushing the spirit of the isolated and abandoned respondent No.2 over a passage of time. The petitioners certainly

cannot claim any benefit for filing an order passed in the writ petition filed by the husband of the complainant/respondent No.2.

41. Learned counsel further submitted that the matter has been enquired by the CAW Cell; they recommended the case to be registered against the petitioners; the investigating authority thoroughly investigated the case; recorded the statements of the witnesses; found the evidence against the petitioners and thereafter the charge sheet has been filed. This Court under Section 482 Cr.P.C. cannot sift the evidence and other material at the stage of charge, therefore, the only prima facie view has to be taken. The present case is pending for framing of charge and the learned Magistrate has taken the cognizance as charge sheet has been filed by the police and summons have been issued against the petitioners. If the petitioners have any document of a sterling quality, the same may be considered during the trial; however, the benefit of the same cannot be taken at this stage. Therefore, the present petitions are pre-mature.

42. Learned counsel also submitted that taking into consideration the fact that the present petitions involve questions of disputed facts and law, therefore, the proceeding pending before the Trial Court should not be stopped at this stage. In view of the settled law, the present petitions may be dismissed with heavy costs.

43. I have heard the learned counsel for the parties.

44. It is emerged that complainant/respondent No. 2, Ms. Reema Singh married with Sh. Sumer Singh Salkan on 24.03.2002 according to Hindu rites and rituals. The said marriage was an arranged marriage and through a Newspaper advertisement. Husband of the complainant was working and residing in Canada. For the purpose of marriage, he came to India and stayed only for four days after his marriage. He left for Canada on 28th/29th March, 2002. The complainant could not accompany him as she did not have the requisite spouse visa. On the same evening, i.e., 28th/29th March, 2002, the complainant left with her brother and sister after seeing off her husband from the Airport itself.

45. Thereafter, she along with her father visited Meerut, i.e., her matrimonial home in the first week of May, 2002 and spent few hours for the purposes of police

verification for visa. After that, she visited her-in-laws at Meerut from 25.06.2002 to 14.07.2002 and finally from 08.08.2002 to 10.08.2002. Thus, her total stay with her-in-laws was for a period of around 20 days till 10.08.2002, after the departure of her husband to Canada.

46. It is further emerged that some differences had cropped-up between the complainant and her husband due to which the husband withdrew his request for sponsoring her as his wife from Canadian Embassy on 24.09.2002. However, it is not clear from any of the communications or FIR what had happened between the complainant and her husband.

47. On coming to know that request of sponsoring from Canadian Embassy has been withdrawn by the husband of the complainant, her parents-in-law tried to pacify the matter but to no avail. Therefore, having no option, they disowned their son and daughter-in-law through a Newspaper publication dated 25.10.2002 by stating that they had nothing to do with the matrimonial acrimony.

48. Thereafter, on 20.12.2002, parents-in-law of the complainant sent a legal notice through their lawyer to both of them, i.e., Sumer Singh and the complainant, to which complainant sent a reply through her Advocate and alleged harassment, cruelty and intimidation against her mother-in-law but not against the petitioners. However, communications continued between the parents-in-law and the complainant till the time, the complainant finally made a complaint to CAW, Cell, which later on was converted into FIR No. 127 dated 22.04.2003 under Sections 498-A/406/34 IPC at P.S. Alipur, Delhi.

49. Case of the petitioners before this Court is that the complainant stayed only for around 20 days with her-in-laws and in between nothing had happened between them, therefore, the allegations made in the complaint are an afterthought just to harass them to extort money and settle the score. Till date, they are not aware what had happened between the complainant and her husband, therefore, they are not at fault and no offence has been committed by them.

50. I note, the dowry articles have been returned to the complainant, but as per the allegations made in the FIR, jewellery gifted from the parents-in-law side is still

with them. On perusal of the statement of the complainant and the FIR together, it is emerged that the main allegations, i.e., of cruelty and misappropriation of dowry arties, are against the mother-in-law and husband of the complainant, not against the petitioners.

51. I have gone through the communications exchanged between the parents-in-law and the complainant, there are no specific allegations against the petitioners herein as the same are against the mother-in-law and husband of the complainant. There were no allegations against the petitioner Poonam Singh as her name was not even mentioned in the said correspondences. Her name emerged first time when complainant made a complaint to the CAW Cell.

52. Therefore, it is emerged that till the complainant made a complaint dated 06.03.2003 to the CAW Cell, there were no allegations against the petitioners whereas the marriage took place on 24.03.2002. The allegations fire up only in communication dated 07.01.2003 alleging harassment, cruelty and intimidation against her mother-in-law. Thereafter, even in reply dated 06.03.2003 to the counter-reply dated 18.02.2003; no specific allegations were made against the petitioners. More particularly, name of the petitioner Poonam Singh was not even mentioned in the said correspondences and her name was only added when the complainant made a complaint before the CAW, Cell.

53. Moreover, in the complaint dated 06.03.2003, complainant has admitted that till 10.08.2002 all was well. She was receiving sweet greeting cards from her husband. In the said letter, no complaint laws. It establishes that all allegations made by her were after 11.08.2002, i.e., of her hair being pulled, beaten repeatedly, demand for lancer car, Rs.20 lakhs, Rs.10,000/- gold set and gold chain.

54. The provisions under Sections 498-A/406 IPC are meant for the protection of women and should be used against the culprits. Poonam Singh, one of the petitioners is a woman, who has nothing to do with the allegations as she is staying separately with her husband and children and looking after her family. The father-in-law (another petitioner) of the complainant/respondent No. 2 is a retired officer, leading a retired life and had hardly any occasion to interact with the

complainant/respondent No.2. The allegations made in the complaint are an afterthought just to harass the petitioners.

55. It is pertinent to mention here that there are four accused in the charge sheet; two of them, i.e., mother-in-law and husband of the complainant are not before this Court as they have not challenged the same and preferred to face the trial. Therefore, this Court has not given any opinion on the offences committed by them.

56. Section 482 Cr.P.C. confers powers to this Court to pass any order in the interest of justice. While exercising the said power, this Court has to realise that the complaint was wholly covered under the 7th circumstance in the case of State of Haryana and Ors. Vs. Bhajan Lal and Ors. , 1992 AIR 604.

57. It is true that this is not the proper stage for finding out the truth or otherwise in the allegations; but where the allegations themselves are so absurd that no reasonable man would accept the same, this Court cannot throw its arms in the air and express its inability to do anything in the matter. Section 482 Cr.P.C. is a guarantee against injustice. This Court is invested with the tremendous powers thereunder to pass any order in the interest of justice. However, the Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution but Court's failing to use the power for advancement of justice can also lead to grave injustice. There is also no allegation of entrustment of any dowry article against the petitioners, therefore, I am of the considered view that no case under Section 498-A/406/34 IPC is made out against them.

58. Consequently, charge sheet filed against the petitioners is quashed with emanating proceedings thereunder. Crl. M.A. No. 5582/2007 in CRL.M.C. No. 1604/2007 & Crl. M.A. No. 9723/07 & Crl. M.A. No. 9723/07 in CRL.M.C. No. 2751/2007 (both for stay) With the disposal of the aforesaid petitions, both these applications have become infructuous. The same are accordingly dismissed. SURESH KAIT, J.

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