

Milind and Another Vs. State of Maharashtra and Another

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Court : Mumbai Nagpur

Decided On : Apr-25-2013

Judge : R.C. Chavan & Prasanna B. Varale

Appeal No. : Criminal Application (APL) No.514 of 2012

Appellant : Milind and Another

Respondent : State of Maharashtra and Another

Judgement :

Oral Judgment: (R.C. Chavan, J.)

This application under Section 482 of Criminal Procedure Code is taken up for final disposal at admission stage. Heard the learned Counsel for the parties finally by consent.

2. This application is filed by accused Milind s/o Rambhau Ingle and Sau. Chhaya w/o Milind Ingle mentioned in the charge-sheet which came to be filed on investigation into the report of respondent no.2. The applicants are the sister-in-law of respondent no.2 and sister-in-law's husband. In this case, initially the Investigating Officer was permitted to complete investigation but was directed not to file charge-sheet without the leave of the Court. However, he did so and, therefore, we have the advantage of going through the charge-sheet for the purpose of deciding this application.

The applicants were not residing with the respondent no.2 or her husband. There were some short spells of respondent no.2's stay with the applicants. All the allegations made against the present applicants come from the FIR and statements of respondent no.2 alone. The learned Counsel for the respondent no.2 points out that there is a statement of respondent no.2's father as well who had absolutely no occasion to see as to how the applicants were behaving with respondent no.2.

3. The allegations in the FIR as well as statements of respondent no.2 do not show that the applicants were guilty of conduct which would qualify to be 'cruelty' as defined in Section 498A of the Indian Penal Code. The allegations are that the respondent no.2's husband used to ring up the applicants, but not the respondent no.2, when respondent no.2 was staying with the applicants. She has alleged that in the five months when respondent no.2 was staying with the applicants, the applicants mentally harassed her without specifying as to what was that harassment.

4. The learned Counsel for the respondent no.2 submits that for the purpose of making out an offence under Section 498-A of the Indian Penal Code, even mental cruelty is enough. There can be no doubt that even mental cruelty would attract penal provisions of Section 498A of the Code. However, it has to be cruelty as defined in the Explanation to the said Section. Here there is no allegation of any harassment falling in Clause (b) of that Explanation. As far as Clause (a) is concerned, except for stating that the applicants indulged in mental harassment to the respondent no.2, there is nothing to show that the applicants were guilty of any conduct which was likely to provoke respondent no.2 to commit suicide or to cause grave injury or danger to her life, limb or health. The contention of the learned Counsel for the respondent no.2 that health includes mental health is undoubtedly correct but it is not shown, rather not even alleged, that respondent no.2's mental health suffered on account of the conduct of the applicants. What is required for making out an offence punishable under Section 498A of the Indian Penal Code is that the injury to the mind or body ought to be of a grave nature and any simple injury would not be sufficient. In view of this, on perusal of the charge-sheet which has been made available to us, we do not find that any case for prosecuting the

applicants for offence punishable under Section 498-A of the Code is made out. There are absolutely no other allegations against the applicants as regards the offences punishable under Sections 420, 494, 495, 496 or 497, 408-A read with Section 34 of the Penal Code.

5. In view of this, the application is allowed. The proceedings commenced by FIR bearing Crime No.218/12 which has culminated into filing of charge-sheet are quashed and set aside in so far as they relate to the present applicants. Observations made herein are only in respect of the present applicants, i.e. Milind s/o Rambhau Ingle and Sau. Chhaya w/o Milind Ingle.

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