

Suman and anr. Vs. Suman Devi and ors.

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SooperKanoon Citation : sooperkanoon.com/481298

Court : Allahabad

Decided On : Mar-08-1996

Reported in : II(1996)DMC1

Judge : S.N. Saxena, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 200 and 204; Indian Penal Code (IPC) - Sections 498A

Appeal No. : Crl. Revision No. 305 of 1996

Appellant : Suman and anr.

Respondent : Suman Devi and ors.

Disposition : Revision dismissed

Judgement :

S.N. Saxena, J.

1. Heard learned Counsel at some length. This revision application is directed against the summoning order on the basis of the complaint filed by opposite party No. 1 Suman Devi against her husband, Arvind Kumar and revisionists Suman and Saroj under various provisions of I.P.C. including 498A, IPC. It is unnecessary to give the details of the complaint. It may be mentioned that the complainant had examined herself as a witness before the lower Court and had also produced four

more witnesses namely her father Dharam Prakash, mother Smt. Ram Pyari, mother-in-law and Rejendra Prasad. All of them had supported the allegations made by her in the complaint. The statement of the said witnesses which were recorded on oath cannot at this stage, be disbelieved as the witnesses have not been cross-examined. May be that ultimately the above named witnesses are not believed by the Court and the case ends in the acquittal of the accused persons but at this stage it is not possible for this Court to arrive at a conclusion that whatever they have deposed on oath was not the truth. The law presumes that a witness who gives statement after taking oath discloses the truth and it is on this basis that the whole of the criminal jurisprudence proceeds further. It cannot therefore, be said that the learned Magistrate had committed any illegality in summoning the accused persons for framing charges against them and the revision application, therefore, was liable to be dismissed.

2. Learned Counsel contended that the question of jurisdiction also was involved as the ornaments etc. of the complainant allegedly were taken from her by the accused persons somewhere in District Etah on the pretext that there was danger of robbery etc. in that area and, therefore, the Magistrate was not competent to take cognizance of the case. The decision of this question is not possible at this stage by this Court. The applicants, however, may raise this question before the Magistrate himself who will consider and decide the same in accordance with law. No Court of Law before whom a question of jurisdiction due to any ground whatsoever is raised can proceed further with the matter unless the question is decided first.

With these observations, therefore, the revision application is dismissed summarily at the stage of admission.