

Shophia Khatoon and ors. Vs. State of Jharkhand and anr.

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Court : Jharkhand

Decided On : Dec-20-2004

Reported in : 2005(2)BLJR890

Judge : S.J. Mukhopadhaya, A.C.J.

Acts : Code of Criminal Procedure (CrPC) - Sections 239 and 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 498A; [Dowry Prohibition Act, 1961](#) - Sections 3 and 4

Appeal No. : Criminal Revision No. 455 of 2003

Appellant : Shophia Khatoon and ors.

Respondent : State of Jharkhand and anr.

Advocate for Def. : A.K. Sahani, Adv.

Advocate for Pet/Ap. : Delip Jerath and; Atanu Banerjee, Advs.

Disposition : Revision dismissed

Judgement :

ORDER

S.J. Mukhopadhaya, A.C.J.

1. This revision application has been preferred by the accused-petitioners against the order dated 7th May, 2003 passed by the learned Sub Divisional Judicial

Magistrate Bokaro in G.R. Case No. 751 of 2001, whereby and where under the petition under Section 239 of the Cr PC for their discharge has been rejected.

2. According to the petitioners Opposite Party No. 2 Shabnam Khatoon wife of Kamaluddin Ansari filed a Complaint Case No. 256 of 2001, in pursuance of which FIR was instituted as Bermo P.S. Case No. 126 of 2001 and the police completed investigation.

3. After submission of charge-sheet the learned ACJM Bermo at Tenughat took cognizance against the petitioners and Kamaluddin Ansari for the offences under Sections 498A of IPC and Sections 3/4 of Dowry Prohibition Act (for short D.P. Act). A Criminal Misc. Petition No. 238 of 2002 was filed before this Court under Section 482, Cr PC to quash the order of cognizance but it was dismissed on 13th June 2002 with observations that the petitioners may raise all the points before the trial Court at appropriate stage. Thereafter the petitioners preferred petition under Section 239, Cr PC for their discharge but it was rejected by impugned order dated 7th May, 2003.

4. Counsel for the petitioners submitted that the case was lodged after long delay and no explanation was given for such delay. Neither specific date nor time of threat or any incident has been shown by the complainant-Opposite Party No. 2. The allegations are general, in nature, and no specific allegations have been made against any of the petitioners. Though it was alleged that because of manhandling by the petitioners, the complainant-Opposite Party No. 2 sustained injury, but no certificate of treatment by any doctor was led as evidence. It was submitted that the complainant-Opposite Party No. 2, in fact, left her husband's house. When she went to the house of her parent at that time she was pregnant. But thereafter, she never returned in the house of her in-laws. It was further submitted that none of the witnesses have supported the case of the complainant-Opposite Party No. 2. Further plea has been taken that the petitioners were in-laws (brother-in-law and sister-in-law) of complainant-Opposite Party No. 2 and are residing separately and no case is being made out against them.

5. The learned Court below on hearing the parties, noticed the case diary and the evidence. It having found that there was allegation of physical torture, assault and

demand of dowry of Rs. 40,000/- and one of the witnesses Abdul Ajiz having supported the case of the complainant-Opposite Party No. 2, held that prima facie, a case under Section 498A, IPC and Section 3/4 of D.P. Act was made out and there was sufficient evidence to bring home the charges.

6. In the facts and circumstances, I find no ground made out to interfere with the impugned order dated 7th May, 2003, passed by the learned Sub Divisional Judicial Magistrate, Bokaro in G.R. Case No. 751 of 2001.

7. There being no merit, this revision application is dismissed.

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