

**Nathu Ram and Anr Vs. State and Ors**

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**SooperKanoon Citation :** [sooperkanoon.com/67332](http://sooperkanoon.com/67332)

**Court :** Rajasthan Jodhpur

**Decided On :** Dec-04-2015

**Appellant :** Nathu Ram and Anr

**Respondent :** State and Ors

**Judgement :**

1 76 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR  
S.B.CRIMINAL MISC.

PETITION NO.485/2015 Nathu Ram & Anr.

versus State of Rajasthan & ORS.Date of Order :: 04.12.2015 HONBLE  
MS.JUSTICE NIRMALJIT KAUR Mr.Sanjay Mathur, counsel for the  
petitioneRs.Mr.Rajesh Bhati, counsel for the State.

Mr.Deepak Nehra, counsel for the respondent No.3/complainant.

<><><><><> The prayer in the present petition is for quashing of the FIR  
No.45/2013 registered at P.S.Mahila Thana, Nagaur for the offence under  
Sections 498-A, 406 of the IPC.

The petitioners herein are the father-in-law and the mother-in-law of the  
complainant.

While praying for quashing of the FIR, the learned counsel for the petitioners submitted that the criminal proceedings instituted by the complainant is sheer misuse and abuse of process of law with the sole malafide intention to cause mental torture, pain, agony and suffering; and it has deprived them of their right to lead a dignified life.

Secondly, the petitioners had never raised demand of dowry, articles, clothes, jewellery either before the marriage or at the time of marriage or after the marriage.

They had never interfered in the matrimonial life of 2 complainant/ respondent No.3.

Thirdly, the averments made in the FIR, statements of the witnesses and the other material placed on record even if taken at their face value do not satisfy the conditions and ingredients of Sections 406, 498-A of the IPC and Sections 3 & 4 of the Dowry Prohibition Act.

The allegations were vague in the nature.

The dispute is between the husband & wife and the parents have been dragged unnecessarily.

Further, the entire family has been enroped including the sister-in-law but after investigation, challan was filed only against the husband and the parents and therefore, the allegations against the petitioners who are father-in-law and mother-in-law cannot be believed.

It is further stated that the allegations are false on the face of it as it was stated by the complainant that documents were lying with the inlaws, whereas, she had sought admission and no admission can be granted without the original documents.

Thus, the same were with the complainant.

The mother-in-law was arrested and no recovery could be effected which shows that the allegations are false.

Reply has been filed by the State and the complainant.

In the reply, the State submitted that a complaint was filed by the respondent No.3- Smt.

Aarti before the Chief Judicial Magistrate, Nagaur.

In pursuance to the said complaint, a direction was issued under Section 156(3) of the Cr.P.C.for registration of the FIR.

It was specifically alleged by the complainant that her marriage was solemnized with Rajkumar on 19.07.2010 and after her marriage, the inlaws started torturing and harassing the 3 complainant for demand of dowry.

She was taken to Ahmedabad where they all were residing together.

She was continuously subjected to physical and mental torture for demand of dowry.

On 15th and 16th September, 2010 when her father came at Ahmedabad, her inlaws showed their annoyance and anger; and demanded one car, 15 lacs cash and one big house or in the alternate Rs.50 lacs, 50 tola gold, A.C.etc.It was also alleged that the complainant joined a private job at Ahmedabad but the accused-persons detained her pass-book, ATM card & cheque book, and deprived her from the income earned by her.

The petitioner No.1, the father-in-law also became aggressive towards her and misbehaved with her.

The mother-in-law Smt.Sita Devi also supported him and used to get angry in case, she resisted the advances made by Nathu Ram.

The statements of the father and the mother of the complainant were also recorded and in pursuance to the information provided by the mother-in-law under Section 27 of the Evidence Act, two gold rings, laptop, clothes and PAN card of the complainant were recovered from her possession.

The complainant/respondent No.3 filed reply stating that the marriage of the complainant was solemnized with Rajkumar on 19.07.2010 and on the same date, Rs.7,00,000/- were withdrawn from the bank account of the mother of the complainant.

Out of which, Rs.5,51,000/- were given in cash and handed over to the petitioner No.1 at the time of marriage.

The heavy amount of money as well as gold and silver ornaments were still lying with them.

They refused to hand over the same, which shows 4 misappropriation and embezzlement.

They were not at all keen to return the dowry articles and cash, which is stridhan.

It is further stated that the petitioners have placed on record the photographs of the complainant with some unknown persons in order to humiliate her.

This has further caused her pain and agony.

Learned counsel for the parties were heard at length.

Serious allegation of demand of dowry has been alleged against the husband and inlaws.

After investigation, the police filed challan both against the father-in-law and mother-in-law as well as the husband of the complainant.

Whereas, no challan has been filed against other family members. It is not disputed that the complainant was residing with the husband, father-in-law and mother-in-law under the same roof.

The complainant has also placed on record the photographs of the wedding ceremony showing large amount of money being handed over to petitioner No.1- Nathu Ram, who is father-in-law.

The money is being received by the father-in-law himself.

It is stated that the said amount is Rs.5,51,000/-.

As proof, it is submitted that Rs.7,00,000/- were withdrawn from the bank account of the mother of the complainant on 19.07.2010 and on the same day, the marriage was solemnized.

Out of the said amount, Rs.5,51,000/- were given to the petitioner No.1.

A person who gives Rs.5,51,000/- to the father-in-law of his daughter in cash is also capable of giving gold & silver ornaments to the husband and other family members at the time of his daughter's marriage.

Thus, it is hard to disbelieve the list of dowry articles, which is given 5 along with the FIR.

It is also relevant to mention here that the husband of the petitioner is absconding till date.

He has neither joined the investigation nor he could be arrested.

As informed to this Court, he has left the country.

The allegation against the petitioners that stridhan has not been returned to the complainant till date and they have misappropriate the same makes out a prima facie offence against them of misappropriation.

It is well settled proposition of law that the power under Section 482 of the Cr.P.C.for quashing of the FIR should be used in the rarest of rare cases.

In the facts of the present case as narrated above, the case does not fall in the rarest of rare case and it would be highly inappropriate to cut short the litigation at this stage.

Dismissed accordingly.

(NIRMALJIT KAUR).J.

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