

Asha Sinha Vs. State

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Court : Delhi

Decided On : Apr-19-2004

Reported in : 2004CriLJ2725; 111(2004)DLT447; 2004(74)DRJ481

Judge : R.S. Sodhi, J.

Acts : Indian Penal Code (IPC) - Sections 498A

Appeal No. : Criminal Revision Petition 180/2004 and Criminal Misc. Application 2603/2004

Appellant : Asha Sinha

Respondent : State

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

Advocate for Pet/Ap. : Rebecca John and; Vishal Gosain, Adv

Disposition : Revision allowed

Judgement :

R.S. Sodhi, J.

1. This petition has been filed against the order dated 7.1.2004 dismissing the application of the petitioner filed pursuant to order of the High Court dated 13.11.2003 which challenged the order dated 29.9.2003 of the Magistrate framing

charge under Section 498-A IPC.

2. It is contended by counsel for the petitioner that as a result of a complaint moved before the Crime Against Women's Cell dated 10.8.1999 an F.I.R. No. 252/2000 was registered at Police Station Vasant Kunj on 19.04.2000. On 19.05.2000 the complainant made another complaint in which she roped in additional people namely, the petitioner, her husband - Dalip Kumar, brother-in-law - Ajit Kumar, two sister-in-laws Ranjana Kumari and Neelam Kumari. The learned Metropolitan Magistrate while framing the charge vide his order dated 29.9.2003 discharged Ajit Kumar, Dalip Kumar, Ranjana Kumari and Neelam Kumari on the ground that the cruelty alleged is quite vague and general in nature. Further that there is no specific instance mentioned by the complainant against them. While in the case of the petitioner the learned Magistrate held that there are specific complaints against the present petitioner in the original complaint as also in the second complaint. Since the reasoning reasoning was incorrect inasmuch as the petitioner was not named in the first complaint, the petitioner moved the High Court by way of Crl.Rev.P.896/2003 where this court by order dated 13.11.2003 granted liberty to the petitioner to move the trial court and place this fact before the trial court for reconsideration. The learned Metropolitan Magistrate on a reconsideration of the application vide his order dated 7.01.2004 dismissed it. The reason given for dismissal is as follows:-

'On a perusal of the entire case records it is again noted that so far as the applicant Asha Sinha is concerned, in the original complaint though she has been referred as sister in law without specifying her name, but in respect of some incidents in the second complaint her role has been specified in detail.'

3. It is contended by counsel for the petitioner that this reasoning is given contrary to the record inasmuch as the name of the petitioner could not figure in the first complaint for reasons that she along with her husband - Dalip Kumar were abroad in connection with the service of Dalip Kumar as Senior Scientific Officer, Food and Agricultural Organisation of the United Nation who has been posted in various countries, presently, in Bangladesh.

4. Counsel for the State submits that there appears to be an error committed by the trial court and that the case of the petitioner is at parity with her husband - Dalip Kumar. He, therefore, submits that the case can be treated at par with that of Dalip Kumar, the husband of the petitioner.

5. Having heard counsel for the parties and having gone through the complaint dated 10.8.1999 as also 19.05.2000, I find that the name of the petitioner does not figure in the complaint dated 10.08.1999 and, therefore, the case is at parity with that of Dalip Kumar, husband of the petitioner. Consequently, the order dated 7.01.2004 as also 29.09.2003 framing charge vis-a-vis the petitioner - Asha Sinha is set aside.

6. Criminal Revision Petition No. 180/2004 is allowed and disposed of accordingly. Criminal Miscellaneous Application 2603/2004 also stands disposed of.

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