

Subhadra Vs. State (Delhi Administration)

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Court : Delhi

Decided On : Aug-01-1996

Reported in : II(1996)DMC496; 1996(38)DRJ521

Judge : S.K. Mahajan, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 406 and 498A

Appeal No. : Criminal Revision Appeal Nos. 111 and 156 of 1995

Appellant : Subhadra;harlal Sharma

Respondent : State (Delhi Administration);state

Advocate for Pet/Ap. : Jatinder Sarin,; S. Kohli and; B.P. Sharma, Advs

Judgement :

S.K. Mahajan, J.

(1) That Shri Shiv Kumar, who is the brother of the petitioners in Crl.R.111/95 and nephew of the petitioner in Crl.R.156/95, was married to the complainant, Smt.Usha according to Hindu rites in Delhi on 1st July, 1990; Both, the complainant as well as Shri Shiv Kumar, were employed as train graduate teachers with the Directorate of Education, Govt. of Delhi. Due to some matrimonial discord, the complainant left the matrimonial home and on March 5, 1992 lodged a report with Crime Against Women Cell at Seelampur alleging that

Shri Shiv Kumar and his family members including the petitioners had been harassing her by demanding dowry and had also not returned her istridhan which was entrusted to them after marriage. On the basis of the complaint and the subsequent report dated 20th July, 1992, case Fir No-430/92 was registered against Shri Shiv Kumar and other relatives under Section 498A/406/34 IPC. After the challan had been filed by the police, the trial Court vide impugned order dated 15th February, 1995 framed charges against the petitioners only under Section 498-A Ipc, no charge against them was framed under Section 406 IPC.

(2) The petitioners being aggrieved of the said order of framing charge under Section 498A against them have filed the present petition for quashing the same.

(3) The contention of the petitioner is that while petitioner No.1 in Crl.R.III/95 was married in 1986 much earlier than the marriage of her brother Shiv Kumar with the complainant and was living outside Delhi at the relevant time; petitioner No.2 was married in June 1991. Both the said petitioners were living separately from the complainant and her husband at the relevant time and the contention is that there are no allegations against either of the petitioners regarding demand of dowry. With a view to appreciate the contentions of the petitioner, it will be useful to note the contents of the complaints as well as investigation which has been carried out by the police.

(4) The complainant in her complaint had stated that her husband Shiv Kumar, father-in-law Parmanand Sharma, mother-in-law Vidya, Devar Jitender Kaushik, Sisters-in-law Subhadra and Pushpa and uncle of her husband Harlal Shastri used to insist upon the complainant to bring more dowry from her father and they were also demanding Rs.50,000.00 in cash and all these persons turned her from the house and did not return her istridhan. Though in the original complaint made on March 5, 1992 the name of one of the Sisters-in-law Kusum was not mentioned, however, in her statement before the police recorded on November 13, 1992 she also named Kusum being one of the persons besides others to have demanded dowry from her. In her statement recorded before the Crime Against Women Cell, it was stated by the complainant that in the month of August, her mother-in-law and sisters-in-law (Kusum and Pushpa) had beaten her and from 21st August,

1990 to 25th April, 1991 she had stayed with her father. It is further stated by her that after the marriage of her sister-in-law, her brother in law (Mahesh) and her father-in-law caught hold of her hand and her mother-in-law Vidya, elder sister-in-law Subhadra (who was living in Punjab with her husband and whose two children were living with the in-laws of the complainant) and younger sister-in-law Pushpa beat her mercilessly. Allegations have also been made against sisters-in-law Subhadra, Kusum and Pushpa in her complaint dated 20th July, 1992. It has been stated that they had tortured her mentally and physically. In her statement recorded on 23rd August, 1992 the complainant has said that she had been beaten by her sisters-in-law. In her supplementary statement recorded on 13th March, 1993 the complainant says that whenever Subhadra and Kusum would come to their parental home, they not only used to abuse and taunt her for bringing less dowry but also used to get her beaten by their mother and brother. The contention of the petitioners is that the allegations of the complainant are wholly vague and not acceptable to common sense and according to them, therefore, there was no case for framing of charge against the petitioners and the petitioners want to be discharged.

(5) At the time of framing of charge, the Court has not to apply the same standard of test and judgment which it finally applies before recording a finding of guilt or otherwise. At this stage, what the Court has to see is whether there is ground enough for presuming that the accused have committed the offence for which they have been charged. The Court is not to judge the truth, veracity and effect of evidence before it at that time meticulously with a view to examine as to whether it provides sufficient ground for conviction of the accused or whether the trial was sure to culminate in conviction. Relying upon *Jasbir Kaur v. State* 1991(1) C L R 202 and *Dr.V.N.Sharma v. State* 1995 Jcc 558, it is contended by the petitioners that on the basis of the material before the Court the chances of conviction of the petitioners were highly remote and, therefore, it will be an abuse of the process of the Court to permit their prosecution. It is submitted by learned counsel for the petitioners that the allegations made did not appeal to common sense and it is a fit case where the charges framed against the petitioners are liable to be quashed.

(6) It is no doubt true that even at the time of framing of charge, the Court should not accept all that the prosecution states as the gospel truth even if it is opposed to common sense or broad probabilities of the case, however, at that stage the Court is only to see as to whether there was some evidence which implicates the petitioner and not that evidence is such which will lead to his conviction.

(7) Coming to the facts of this case I find that specific allegations have been made against the petitioners in Crl.R.111/95. It has been clearly stated by the complainant that her father-in-law caught hold of her hands and her mother-in-law, elder sister-in-law Subhadra and younger sister-in-law Pushpa beat her mercilessly. Allegations against the petitioners have been made in the complaint as well as in the statement recorded by the police during the investigation. I am unable to agree with learned counsel for the petitioners that the allegations made against the petitioners are vague.

(8) At this stage it is, therefore, not possible to infer that there was no evidence against the petitioners on the basis of which charge could not be framed against them under Section 498-A of the IPC.

(9) The petition being Crl.R.111/95 does not have any merits and the same is, accordingly, dismissed.

(10) Coming now to the petition of Har Lal Sharma, I find that except in the statement of the complainant no other allegations have been made against the petitioner. Even the allegations made in the said complaint are wholly vague and clearly appear to be an afterthought. He is admittedly living separately from the husband, and father-in-law of the complainant. No allegations whatsoever have been made against him that he had any time beaten her or had tortured her mentally or physically. In my opinion, there being no allegations against the petitioner, he has unnecessarily been imp leaded as an accused and he could not have been charged for an offence under Section 498-A IPC. I, accordingly, set aside the order of the Metropolitan Magistrate in so far as it relates to the petitioner Har Lal Sharma and discharge him.

(11) With these observations, the petitions stands disposed of.

