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Court : Delhi

Decided On : Jan-31-2000

Reported in : 2000IIAD(Delhi)614; AIR1992Delhi604; 2000CriLJ1520

Judge : M.S.A. Siddiqui, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 482; Indian Penal Code (IPC), 1860 - Sections 34, 406 and 498A

Appeal No. : Crl M. (M) No. 1691/96

Appellant : Rupinder Kaur and anr.

Respondent : State Govt. of (Nct) and anr.

Advocate for Def. : Mr. M.S. Butalia, ; Mr. Munish Upadhyay and ; Mr. T.S. Upad

Advocate for Pet/Ap. : Mr. K.T.S. Tulsi, Senior Advocate,; Mr. D.N.S. Srivastava and;

Judgement :
ORDER

M.S.A. Siddiqui, J.

1. By this petition under Section 482 Cr.P.C., the petitioners seek quashing of criminal proceedings emanating from the case FIR No. 317/94 under Sections

498-A/406 IPC registered at the Police Station Hari Nagar, Delhi and pending on the file of the Metropolitan Magistrate.

2. Briefly stated, the facts giving rise to this petition are that on 10.6.1994, respondent No. 2 lodged a report at the Police Station Hari Nagar against her husband Harpreet Singh and her in-laws (Petitioners). Investigation pursuant thereto culminated in submission of a charge-sheet under Sections 406/498-A IPC read with Sections 4/6 of the Dowry Act. Hence this petition.

3. The present petitioners are in-laws of the respondent No. 2. On 6.2.1989. Harpreet Singh secretly got married with the respondent No. 2. When the petitioners came to know about the said marriage, they got it solemmnised on 26.3.1989. On 9.9.1989 Harpreet Singh and the respondent No. 2 left for Australia. On 26.5.1991, a male child was born to respondent No. 2 at Adelaide (Australia). In November, 1991, the respondent No. 2 became suspicious about the alleged illicit relationship of her husband Harpreet Singh with a woman and she, thereforee, came to India to live with the petitioners. The respondent No. 2 wrote the letters Annexure P-4 at page 137, Annexure P-5 at page 138 and Annexure P-7 at page 149 of the paper book to her husband Harpreet Singh. On 21.12.1992 Harpreet Singh failed a divorce petition against respondent No. 2 in Australia. On 27.12.1992 Harpreet Singh came to India. In March, 1993 respondent No. 2 shifted to her parental house. On 24.4.1993 respondent No. 2 filed reply to the divorce petition filed by her husband in the family Court at Australia. On 18.5.1993, the family court of Australia granted divorce decree dissolving the marriage of respondent No. 2 with Harpreet Singh. On 17.6.1993, respondent No. 2 filed a civil suit before this Court for setting aside the decree of divorce granted by the family court of Australia. On 7.10.1996, the plaintiff's suit was dismissed by this Court. The aforesaid facts have been admitted by learned counsel for respondent No. 2.

4. Learned counsel for the petitioners contended that the aforesaid admitted facts clearly show that the present prosecution has been launched against the petitioners to harass them and the materials collected by the prosecuting agency do not constitute any offence against the petitioners. Learned counsel further contended that the allegations made by respondent No. 2 regarding the alleged

demand of dowry and her harassment are vague and they have been made to rope in the petitioners in a desperate effort to salvage whatever remains of a dissolved marriage between their son Harpreet ingh and the Respondent No. 2. He further contended that the vague and false allegations made against the petitioners are not sufficient to allow the continuance of the criminal proceedings against the petititioner. Reliance was sought to be placed on decisions in V.N. Sharma and Others Vs . The State, : 1995(34)DRJ298 , Smt. Rani and Another v. The State 1996 JCC, 119, Avtar Singh and Others v. State of Punjab and Another, 1993 (2) RCR 157 (Punjab & Haryana) Raj Singh v. State of Haryana, 1993 (2) RCR 159 Suresh Kumar and Ors. v. State of Haryana, 1989 (2) RCR 73, Krishan Lal and Others v. State of Haryana and Another, 1990 (3) RCR 183, Rai Singh v. Smt. Gurdev Kaur, 1989 (1) RCR 647, Anokh Singh and Others v. Paramjit Kaur, 1990 (1) RCR 197 in support of the said contentions.

5. It is well settled that the power of quashing an FIR or criminal proceedings has to be sparingly exercised by the Court with due regard to the guide-lines laid down in this behalf. In State of Haryana v. Bhajan Lal, AIR 1992 SC 605, certain categories of cases have been laid down by way of illustration wherein the extra-ordinary power under Section 482 Cr.P.C. can be exercised by the High Court either to prevent abuse of process of any Court or otherwise to secure the ends of justice. In Satish Mehra Vs . Delhi Administration, : (1996)9SCC766 , it was held that if the Court is almost certain that there is no prospect of the case ending in conviction and the trial of the case would be an exercise in futility or sheer wastage of time, it is advisable to truncate or snip the proceedings at the stage of Section 227 of the Code of Criminal Procedure itself.

6. It is undisputed that on 6.2.1989 respondent No. 2 secretly got married with Harpreet Singh; that when Harpreet Singh's parents (petitioners) came to know about the said marriage they got it solemnised on 26.3.1989; and that on September 9, 1989 Harpreet Singh and the respondent No. 2 left for Australia. In the FIr lodged by the Respondent No. 2, it was alleged hat from the very beginning, the respondent No. 2 had an unhappy married life because of the accused constantly demanding her to get more dowry from her parents. The petitioners have filed a copy of the plaint of the civil suit filed by the respondent

No. 2 against her husband Harpreet Singh. There is not even a whisper in the plaint about the alleged cruelty or harassment of the respondent No. 2 by the petitioners. On the contrary, it was specifically pleaded in para No. 3 of the plaint that the respondent No. 2 lived happily at the matrimonial home. Para No. 3 of the plaint is as under:-

'3. That after they got married the plaintiff and the defendant were living happily at their matrimonial home at the aforesaid address along with the parents of the defendant, where the plaintiff is presently residing. That at the time of the marriage the plaintiff and the defendant were barley 22 years old and were still in the midst of student years.'

7. Thus, it can safely be inferred from the averments made in said para No. 3 of the plaint that neither the petitioners harassed or altreated the respondent No. 2 not demanded any dowry from her at any point of time. It is undisputed that after her arrival from Australia, respondent No. 2 wrote three letters (Annexures P-4, P-5 and P-7) to her husband. The last letter (Annexure P-7) is dated 20.4.1993. In none of the letters, respondent No. 2 made any complaint about the alleged maltreatment or demand of dowry against the petitioner. In her letter dated, 20.4.1993, she had made it clear that she was leaving her matrimonial home as she wanted to be independent. The said letter is an under:-

'Dear Harpreet,

Hi, How are, you, I hope you must have received my previous letter. Last week I tried to contact you on phone but could not get through. As I wrote to you earlier that I do not want to continue any relationship with you. I cannot for your brother to come to India. I have finally left your parents house last month and I am now staying with my father in R.K. Puram. I have brought all my belongings and Gruvin Along with me, as I do not want to leave anything there which can remind me or you of our relationship. I will be able to manage Gruvin here till Bittoo gets married. Since we cannot live together, I thought it will be better for both of to part company.

I have joined a job in a travel agency and will be able to look after myself and Gruvin. Once Bittoo gets married, I will make suitable arrangements for Gruvin. What happened to the divorce case.

Did you discuss the matter with your parents or Dimpy. If you have not done then let me know. I can do it here with your parents if you want. Since I want to make my career and future, I want to be independent and I do not want to stick around with you or your parent. You are at liberty to do what you like. No one is going to stop you. I had married you on my own and without our parents consent and I am now leaving you on my own. So we should not hold any one responsible for this. We are both responsible for this.

As for Gruvin, he is still too young. We could decide about him once he grows up. You may decide what is best for him. I do not want to write any further. Let me know about everything at the earliest.'

8. The said leter clearly shows that respondent No. 2 had left her matrimonial home in March, 1993 and came to reside with her parents. The FIR was lodged on 10.6.1994. The said letter further shows that she had left her matrimonial home at her own free will and that till then she was neither harassed nor maltreated by the petitioners. Admittedly, the respondent No. 2 had filed her written statement before the family Court at Australia in the divorce proceedings instituted by her husband. This written statement is conspicuous by the absence of any allegations whatsoever against the petitioners. On the contrary, the averments made in para No. 7(h) of the said written statement contains a declaration made by the petitioners that none else but the respondent No. 2 would truly remain their daughter-in-law. The aforesaid documents clearly falsify the averments made by the respondent No. 2 in her FIR that she was harassed or maltreated by the petitioners in connection with the dowry demand. In that view of the matter, there is no prospect of the case ending in conviction of the petitioners, under Section 498-A IPC.

9. As regards the offence under Section 406 IPC, the respondent No. 2 has clearly admitted in her letter dated 20.4.1993 that he had brought all her belongings at the time of leaving her matrimonial home. That being so, there is also no prospect of

the case ending in conviction of the petitioners under Section 406 IPC.

10. It appears that the respondent No. 2 is really aggrieved by the treacherous and adulterous conduct of her husband. On arrival at Australia, little did she then anticipate that her husband, to whom she pressed to her heart with all the odour of love and of youthful passion, could ever fall a victim to a case of adulterous lust. Gradually, she discovered that a serpent in the form of a woman had entered into the paradise of her happiness and her husband had fallen. Dispirited and discouraged at the failure to regain her husband's love and affection, she left Australia and came to India. She was not only forever deprived of the comfort and society of the husband she so adored, that not only her innocent child robbed of his father's pure affection, but she herself was placed in a situation too dreadful, too terrible to be endured. however, the petitioners cannot be made to suffer on account of the respondent's failure to defend her domestic citadel from adulterous assault.

11. For the forgoing reasons, I am of the opinion that there is no prospect of the case ending in conviction of the petitioners under Sections 498-A/406/34 IPC and allowing the proceedings to continue and thereby forcing the petitioners to face the ordeal of trial would be an abuse of the process of the Court. Consequently, the petition is allowed and the criminal proceedings emanating from the FIR No. 317/94 under Sections 498-A/406/34 IPC and pending on the file of the Metropolitan Magistrate are quashed qua the petitioners. Their bail bonds are discharged. Before parting with this order, I may make it clear that I am not expressing any opinion on the merits of the case of the accused Harpreet Singh and the court trying the case shall not be influenced by any of the observations made in this order quashing the proceedings in respect of the petitioners.

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