

Equivalent citations: 2004 CriLJ 2989, II (2004) DMC 847

Bench: H S Prasad

Arjun Ram vs State Of Jharkhand And Anr. on 13/5/2004

ORDER

Hari Shankar Prasad, J.

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order taking cognizance dated 1-2-2002 passed in Complaint Case No. 1451/2001 (T.R. No 1018/ 2002) under Sections 498A/323/379 and 494, IPC.

2. Facts giving rise to the filing of the application are that the opposite party No. 2 Devanti Devi filed a Complaint Case No. 1451/2001 stating therein that she was married with the petitioner in the year 1977 and she lived in her sasural peacefully for two years and thereafter she lived with her husband-petitioner for three years at different places on his posting and out of his wedlock, three daughters and one son were born and the petitioner left opposite party No. 2 at his paternal house at Birni with her daughters. One of the daughters has been married. It is further alleged that petitioner got married with one Purnima Devi in the year 1985 in connivance with the other accused persons. Father-in-law and brother-in-law of the complainant used to torture her whenever she complained the petitioner. Petitioner used to give her Rs. 200/- to Rs. 300/- per month as maintenance, which is insufficient for her and her daughters. It is further alleged that in the month of August she had gone to her naihar after locking her room and when she returned, she found her jewellery and saries were missing and when she inquired about the same from her father-in-law and brother-in-law, then she was informed that they had taken the articles. It is further alleged that the very next day, petitioner came with Purnima Devi and drove her out from her sasural after assaulting her and since then the complainant-opposite party No. 2 has been living in her naihar. The learned Court below after holding inquiry under Section 202, Cr.P.C. took cognizance under the aforesaid Sections

3. The learned counsel appearing for the petitioner submits (that) the instant com-plaint case was filed on 3-12-1991 as a counter-blast to the matrimonial case being Title (M) Suit N. 22/2001 filed by the petitioner on 5-6-2001 for seeking divorce from the complainant. It was further pointed out that according to the complaint case, the opposite party No. 2 lived with the petitioner for few years after marriage in the year 1977 and that after the birth of her second daughter in the year 1982 the relationship between the petitioner and complainant-opposite party No. 2 became strained, as the opposite party No. 2 felt uncomfortable in living with her in-laws. It is further pointed out that relationship of petitioner and O.P. No. 2 had become so tense that both were not on talking terms with each other since 1983 and she developed illicit relationship with one Birju Ram, who is cousin of the petitioner and thereafter opposite party No. 2 gave birth to a daughter in the year 1991 due to extra-marital relationship. It is also pointed out that opposite party No. 2 had no grievance to the second marriage of the petitioner with one Purnima Devi in the year 1985 and when a divorce case has been filed against her, she has come out with all false and filthy allegations. In this connection, learned counsel for the petitioner placed reliance upon 1997 (2) PLJR 60, wherein it has been held that when complainant filed complaint after an abnormal delay against (sic) who are employees of State Bank of India, from where complainant had taken a loan and there is nothing on record to show that soon after the occurrence, case was not lodged, then such a prosecution appears to have been actuated by mala fide intention and story in complaint case being absurd, the cognizance was quashed. The learned counsel while relying on this case law submitted that opposite party No. 2 while filing complaint case alleged that torture on her was started right from 1983 till 2000 but she has filed a case under those sections against the petitioner only after petitioner filed a Title (M) Suit No. 22 of 2001 in the month of June, 2001 and notice was served on opposite party No. 2 and soon before appearance in Title (M) Suit, she filed this complaint case on 3-12-2001 levelling allegation of torture etc. and also of second marriage of petitioner with one Purnima Devi.

4. On the other hand, learned counsel for the opposite parties submitted that learned Court below, after due inquiry under Section 202, Cr. P.C., came to a finding and found prima facie case against the petitioner and, therefore, the order does not require any interference.

5. On perusal of records and after hearing the submissions of the parties, it appears that cause of action in the case bearing Complainant Case No. 1451/2001 filed by opposite party No. 2 was right from 1983 till 2000 but no case was filed in the year 2000 and in the beginning of 2001, the complaint case was filed only after Title (M) Suit No. 22 of 2001 was filed in June, 2001 and notice on the aforesaid case was issued on 3-12-2001. The instant complaint case was filed with mala fide intention.

6. in the instant case, it appears that the criminal case has been filed, which is manifestly intended with mala fide and ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. In this connection reliance may be placed upon AIR 1992 SC 604 ; (1992 Cri LJ 527).

7. It is clear that this complaint case was filed only after coming to know of the filing of the Title (M) Suit for divorce and, therefore, it is actuated with mala fide intention.

8. In that view of the matter, this application is allowed and the order taking cognizance dated 1-2-2002 is hereby quashed.