

Bench: V Sirpurkar, D Verma

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 949 OF 2003

NEELU CHOPRA & ANR. ... Appellant(s) Versus

BHARTI ... Respondent(s) J U D G M E N T

V.S. SIRPURKAR,J.

1. This appeal is against the judgment of the Delhi High Court whereby the petition for quashing the criminal proceedings against the appellants pending before the trial court has been dismissed.

2. The factual scenario is that the appellant Neelu Chopra and Krishan Sarup Chopra are husband and wife and the respondent Bharti is their daughter-in-law. Bharti was married in the year 1984 to one Rajesh, the son of present appellants. However, as per the version of the respondent the married life was not smooth on account of unreasonable demand of dowry and the misbehaviour on the part of husband Rajesh and his parents, the appellants herein. Ultimately, on 24.12.1993 a complaint came to be filed before the Judicial Magistrate Ist Class, Gidderbaha. The complaint was accepted in the sense that the learned Judicial Magistrate by his order dated 25.1.1994 took the cognizance of the offences under Sections 406, 498A read with 114 IPC. This order of cognizance was challenged by the accused persons. Rajesh is reported to have expired on 6.1.2006. The High Court, however, did not agree to quash the complaint and took a view that the complaint did show the material sufficient to proceed against the appellants. The High court, however, expressed that it would be open to the Magistrate to exempt the personal presence of the appellants. 3.

3. Mr. M.N.Krishnamani, learned senior counsel appearing for the appellants painstakingly took us through the original complaint as also the allied facts relevant for the determination of the present controversy. It was pointed out by the learned senior counsel that the marriage had taken place way back in the year 1984 while the complaint was filed on 24.12.1993 i.e. after about nine years of the marriage. It was further pointed out that two daughters were born to the complainant and presently the complainant along with his daughter is residing in the same house but on the different floor. Learned senior counsel points out that those daughters are now 22 and 19 years of age. He further points out that presently the age of the first appellant is 76 years while her husband is of 80 years. Learned senior counsel, however, besides these facts, laid great stress on the fact that the complaint is absolutely vague and silent as regards the allegation against the present appellants.

4. We have seen the complaint very carefully. From a bare reading of the complaint it is apparent that the problem started barely after six months of the marriage. In paragraph 3 of the complaint, it is stated that all the accused came to complainant's parents house at Gidderbaha and asked her parents to give the complainant more gold and other articles as dowry otherwise they would leave the complainant there and Rajesh would be married second time. In paragraph 4, the complaint is against Rajesh in the sense that the accused Rajesh asked the complainant to hand over the ornaments and clothes to his parents lest they are lost in the way. On reaching to Delhi when the ornament were asked back by the complainant, they were not returned back. When we see the complaint as a whole it is basically against the accused Rajesh. All the allegations are against Rajesh. There is undoubtedly some reference to the present appellants, but what strikes us is that there are no particulars given as to date on which the ornaments were handed over, as to the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint and it is a general and vague complaint that the ornaments were sometime given in the custody of the appellants and they were not returned. What strikes us more is that

even in paragraph 10 of the complaint where the complainant says that she asked for her clothes and ornaments which were given to the accused and they refused to give these back, the date is significantly absent. It seems from the order taking cognizance that the learned Magistrate has mentioned about the version of the complainant is supported by Bhagwati and Dharampal to the fact that the ornaments were entrusted to Krishan Saroop and Rajesh while clothes were entrusted to Rakhi and they refused to hand over the same. Even their statements could not be better than the vague complaint. Even about the clothes, the date on which they were handed over to Rakhee who happens to be the daughter of the present appellants and the other details are very significantly absent. It was also the version of the complainant that she was beaten in support of which she has filed a certificate from AIIMS hospital, New Delhi. However, in the complaint, it is not seen as to on which date she was beaten and by whom. It is significant to note that the matter against the Rakhee, the 4th original accused has already been dropped as she was in fact not even the resident of the same house.

5. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants.

6. The High Court has merely mentioned that the allegation in the complaint are of retaining jewellery articles in possession of the husband and the petitioners. Now if the articles were in the possession of the husband, there is no question of the present appellants being in possession of the appellants. This is apart from the fact that it has already been expressed by us that there is no mention of the date on which the said ornaments, if any, were entrusted to the appellants or even the date when they were demanded back and were refused to be given back by the appellants or any one of them. Insofar as the offence under Section 498A IPC is concerned, we do not find any material or allegation worth the name against the present appellants. All the allegations appear to be against the Rajesh.

7. This is apart from the fact that despite service of notice, the complainant neither appeared before this court nor engaged any counsel to represent her. Under the circumstances we are of the opinion that the judgment of the High Court deserves to be set aside. It is, accordingly, set aside and the order of the learned Magistrate taking cognizance is quashed. The complaint is quashed under Section 482 Cr.P.C.

8. The appeal is allowed accordingly.

.....J.

(V.S.SIRPURKAR)

.....J.

(DEEPAK VERMA)

New Delhi,

October 7, 2009.