

Equivalent citations: 138 (2007) DLT 535

Bench: S N Dhingra

Smt. Sangeeta Kalra vs State on 2/3/2007

JUDGMENT

Shiv Narayan Dhingra, J.

1. This is a petition under Section 482 Cr. P.C. for quashing of FIR No. 518/2000, under Sections 498A/406/34 IPC.

2. Complainant in this case married petitioner's brother on 11.3.99. She lived in matrimonial home for two weeks and left the matrimonial home. She wrote a letter to her husband giving reasons of her leaving matrimonial home, which reads as under:

Dear Raju,

There are several other things which I wanted to tell but I could not tell you, so I have gathered courage to write the same. I have now learnt that you are a good human being and you have condoned my several draw backs. Thus, I shall always be grateful to you. Raju, like any other girl, I also had dreams, which I could not tell you but I would like to tell you the same today, so that we can understand each other better and can give happiness and love to each other. My dreams were there should be light music in my room and my partner should shower love on me and should accept me from core of his heart fully. I should be attractive and we should be able to possess each other. Raju, I know there were some mistakes on my part that I could not seduce you completely. While preparing you mentally I forgot to prepare you physically. I am sorry. Henceforth I shall make full efforts that you get satisfaction from me and not from yourself. You must be understanding what I am trying to say. Raju, the relationship of husband and wife is not only of body but it is of heart and soul as well. I understand your all problems and I shall give company to you in all times. So far as babies are concerned, we will not have babies till you do not want them and I will not make any demand from you howsoever long it may take. Raju, I am going today, you should come to my parental house to take me back if you consider that I am not a useless thing. Raju, please destroy this letter after reading it so that it does not fall into the hands of others and we become laughing matter. And lastly thank you very much for all your affection, concern, care and love (I hope so) " I love you very much dear and will always do so even if you accept me or not it doesn't matter". Always your and only yours. Summi.

Post Script. - Raju I have disturbed you for several nights and now you should sleep properly. I know if you wanted you could have forcibly established relationship with me but you left me thinking as if I was a child. I would not get better husband than you in this world. I am very lucky that I got a husband like you and I thank god for giving such a wonderful husband.

3. This letter is undisputedly in the hands of complainant. After this letter, she never lived at the matrimonial home. This letter was written about two weeks after the marriage when she left the matrimonial home. First complaint thereafter was made to the police by her father on 24.6.1999 and in that complaint he specifically wrote that his daughter was at his home for more than three months which also shows that complainant had not lived with her husband for more than 10 days or so, since marriage had taken place on 11.3.99. In the complaint written by the father of the girl, he did not give the date of leaving of matrimonial home by his daughter and made all vague allegations without specifying any demand of dowry and any incident of cruelty. He wrote that few days after marriage of the girl, the boy, mother, father sometime accompanied by sister troubled the girl. The sister mentioned herein is the sister who was married much before the marriage of the complainant and was living in her house at New Friends Colony, which is almost 20 kilometer away from the

matrimonial home of the complainant, with her husband and children. It is not alleged in this complaint or in the statement made by the girl that the sister of the boy left her matrimonial home and started living at her parental home. The sister who is married and having children, obviously has to look after her home. Thus, there was no occasion for her to live at the matrimonial home of the complainant.

4. It seems that the complainant, who left the matrimonial home due to failure of physical relationship and resultant dissatisfaction, later on thought of implicating every member of the family in an anti-dowry and cruelty case. Initially, she made vague allegations against everybody and thereafter made a supplementary statement under Section 161 Cr. P.C. supplementing her earlier statement. In the supplementary statement it is stated that her father spent more than Rs. 22,00,000/- on her marriage while there was no such claim made by her father even in his own complaint made to the police on 24.6.1999.

5. It is true that while considering the quashing of criminal proceedings under Section 482 Cr. P.C, the Court should not embark upon an enquiry into the truthfulness of the allegations made by complainant but where the charges are framed by the lower court without considering the material, with closed mind and charges amount to gross misuse of criminal justice system and trial is an abuse, it becomes the duty of the High Court to intervene in such cases, under Section 482 Cr. P.C so that there is no miscarriage of justice and faith of people remains intact in the judicial system. In this case, charges have been framed against the petitioner, sister of the husband, without their being an iota of evidence of any cruelty or entrustment of any property by the complainant in the initial complaint or in the later complaint. Even in subsequent complaint made by the complainant herself there are no specific allegations and only vague allegations are there involving every family member.

5. In G. Sagar Suri v. State of UP , Supreme Court observed that criminal proceedings should not be allowed to be resorted to as a short cut to settle the score. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. Jurisdiction under Section 482 Cr. P.C has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice. Though the Magistrate trying a case has jurisdiction to discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 Cr.P.C or Article 227 of the Constitution of India. In Indian Oil Corporation v. NEPC Indian Limited Supreme Court deprecated the tendency of using criminal justice system as a tool for arms twisting and to settle the score and laid down that High court can intervene where the criminal justice system is used as a tool.

6. In Ramesh and Ors. v. State of Tamil Nadu 2005 CRI.L.J 1732 in a similar case the married sister of husband living at her matrimonial home was roped in under Section 498A/406 IPC. In that case she had stayed at her parents house, for some days. In the present case, there are no allegations that petitioner stayed at her parents house even for one day after the marriage. Allegations against the petitioner in that case were that she directed complainant to wash W.C and sometimes made some imputations against her. Supreme Court observed that all these do not amount to harassment with a view to coercing informant or her relations to meet an unlawful demand. In the present case the complainant left house after leaving a letter to her husband giving reasons of leaving the matrimonial home. However, she turned colour after she started living at her parental house. She who showered praises on her husband for his understanding, love and affection, without living with him a day further, suddenly made allegations of dowry demand and cruelty and used language which is not used by the civilized persons. In her complaint she used abusive language for her father-in-law like 'kameena' and 'zaleel' etc. Simultaneously she claimed that she belonged to a well educated family.

7. I consider that while framing charges, the Trial Court must take into account the entirety of the case, all documents which are brought to its notice including the correspondence between the parties and thereafter should decide whether there was case made out or the court was being used as a tool. I consider it is a fit case where criminal proceedings against the petitioner be quashed. I, therefore, hereby quash criminal proceedings against the petitioner under Sections 498A/406/34 IPC, in FIR No. 518/2000 Police Station Shalimar Bagh,

Delhi. dusty.

Petition stands disposed of.