

* **HIGH COURT OF DELHI AT NEW DELHI**

+ Cr. M.C. No. 1382/2008

% Reserved on:- 5th May, 2008
Date of Decision: May 16th, 2008

Dr. Amrit Lal Garg & Anr. Petitioner
Through Ms. Anusuya Salwan and
Ms. Renuka Arora, Advocates
for Petitioners

Versus
The State Respondents
Through Mr. Sanjeev Bhandari,
Standing Counsel for the State.

CORAM:

* **HON'BLE MR. JUSTICE MANMOHAN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes.
3. Whether the judgment should be reported in the digest? Yes.

J U D G M E N T

MANMOHAN, J :

1. The present petition has been filed under Section 482 Code of Criminal Procedure (hereinafter referred to as Cr. P.C.) against the order dated 28th February, 2008 passed by learned Additional

Sessions Judge, Delhi upholding framing of charges against the petitioners under Section 498A of Indian Penal Code (hereinafter referred to as IPC).

2. The brief facts of this case are that the petitioners are the inlaws of the complainant. The complainant was married to Dr. Ritesh Garg son of the petitioners on 29th August, 1999. It is stated that after marriage the newly wed moved to Devengiri in Karnataka for their higher medical studies. After completing the course, husband of the complainant came back to Delhi and joined PGIMS at Rohtak in July 2001. Complainant also, after completing her course, joined her husband and took up a job there. It is further stated that the relation between the complainant and her husband were not cordial and complainant refused to stay at the rented accommodation at Rohtak. Then she along with her husband shifted to Delhi and stayed at the rented accommodation at Majlis Park, New Delhi – 110 033, as the complainant refused to stay with the petitioners as well. Thereafter the complainant and her husband have been living separately at Ashok Vihar, New

Delhi. Since the marital life between the complainant and her husband was not cordial, the husband filed a petition of divorce under Hindu Marriage Act on 16th January, 2004. Thereafter the complainant lodged a complaint before CAW cell on 6th February, 2004 alleging demand of dowry, harassment, torture, mental and physical cruelty against the petitioners, their son and a married daughter.

3. On the basis of said complaint FIR No. 204/2004 under Section 498A, 406 & 34 IPC, PS Preet Vihar was registered. The charge sheet was filed after investigation on 3rd August, 2007. Trial court framed charges under Section 498A, 406, 34 IPC. Aggrieved from the order dated 3rd August, 2007, petitioner preferred criminal revision petition 99/2007. The learned Additional Sessions Judge, Delhi vide order dated 28th October, 2007 held that no charges against the sister-in-law are made out, but against the petitioners only a prima facie case under Section 498A IPC is made out, as there were no specific allegations under section 406 IPC against the petitioners.

4. Learned Counsel for petitioners submits that the complainant after her marriage never resided with petitioner so the allegations against the petitioners of dowry and mental and physical torture are vague and false in nature. It is also said that the petitioners are senior citizens and enjoy good reputation in the society. Learned counsel also referred to a letter dated 25th June, 2006 annexed as P-6 written by complainant's father. She also relies on the judgement of this court reported in **144 (2007) Delhi Law Times, 483 titled as "Surjeet Kaur Chopra Vs. State & Anr."** wherein this Hon'ble Court considered the following circumstances as relevant :-

"34.....

(c) Allegations in the FIR are primarily directed against the husband. Prima facie it appears to be a case of temperamental difference between the husband and the wife.

(e) Allegations of dowry demand against the father-in-law only relate to transfer of ownership rights of 2 floors in a property at Sunder Nagar in the name of the husband of the complainant. The allegation is of a general nature. The time, date and month of demand has not been specified"

5. Before I proceed any further, I may refer to the relevant part of the complaint filed by Complainant wife against her in-laws. The said relevant paras are reproduced herein below for ready reference :-

“In the month of January 2002, my parents-in-law and my sister-in-law (Sonum) suggested that Ritesh’s job at Rohtak was not financially rewarding, therefore, it is advisable and essential to renovate my in-laws’ existing clinic and to install latest equipment for Ultrasound, Colour Dopple, Mammography, X-Ray, etc., for a full-fledged clinic and good financial return. My parents-in-law demanded a sum of Rs. 50 lacs from my father, for the said renovation and purchase of above-said machinery.

I was sent to my paternal home for one month during March 2002 at Preet Vihar for bringing the money and almost every day the demand was raised and I was asked to arrange for the money. My parents could not arrange the above-said huge amount and showed their inability to pay the same. My parents-in-law clearly declared that in case my parents did not pay at least Rs. 25 lacs immediately, I have no place in their life and my plight started from the said day. They threatened me and appeared to have entered into a deep-rooted conspiracy in a very planned manner to separate us.....

In the month of September 2002, my in-laws and sister-in-law threw me out from my matrimonial house C-41, Mahendru Enclave, G.T. Karnal Road, a palatial 3-storey house having more than 30 rooms built on a plot of 400 sq. yards. I was shifted to a single room in

rented premises at Majlis Park. All my istridhan, jewellery, valuable clothes and other articles remained at C-41, Mahendru Enclave, G.T. Karnal Road in power, control and possession of my in-laws. I was allowed to take only my necessary things and clothes in a suitcase that was packed by my mother-in-law herself. I started living at Majlis Park in tenanted premises where my husband seldom visited late in the night and used to leave early in the morning. My humiliation and torture though started in the month of March 2002 but it increased day by day.

My in-laws further took a well-planned step to show that they have not taken any money and dowry from my parents. The amount of more than Rs. 5 lacs, which was lying in my savings bank account, was used and misappropriated by my in-laws and my husband from September, 1999. All of sudden they purchased a car in my name in March 2002, however, the same remained in the use of my in-laws. My father-in-law further deposited a sum of Rs. 2 lacs in my bank account in the month of June 2003 to show that my accounted money has been returned to me and there is no other liability and demand of dowry on their part. Similarly, in the month of June, 2003, I was asked to take a locker on rent in Bank in our joint name but all my jewellery including diamond and gold sets were not handed over to me by my mother-in-law, intentionally and deliberately.....

During all these years I suffered grave mental and physical torture, cruelties, harassment, which led me to feel totally neglected, helpless and hapless due to the conduct of my husband, parents-in-law and sister-in-law. My life became totally dejected and sometimes all these cruelties drove me to commit suicide. I tolerated all this inhuman behavior only to save my matrimonial life and prestige and dignity of my parents.

As such I am placing some of the acts and cruelties of my in-laws in this complaint, though there are many other grave cruelties, torture, misbehavior and demand of dowry. My all the dowry articles, cash, jewellery and valuables are still in power and control of my parents-in-law and husband, which they have retained with them.

I, therefore, request your good self to get and recover all my istri dhan, jewellery, cash and other articles and a case be registered for cruelty, demand of dowry, breach of trust and other offence against the above-said four persons.”

6. It is a settled law that a court while framing charges under the Code of Criminal Procedure has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. However, on perusal of the charge-sheet I cannot say that the material placed before the court do not disclose grave suspicion against the Petitioners. I may mention that at the stage of framing charges a court is not supposed to make a roving enquiry into the pros and cons of the matter and weigh the evidence as if it were conducting a trial. Even the judgment of Surjit Kaur Chopra (Supra) relied upon by the Petitioners deals

with grant of anticipatory bail and not with discharge. Therefore, the said case has no relevance to the facts of the present case.

7. Consequently, the present petition is dismissed but with no order as to costs. However, it is clarified that any observation made in the present order would not prejudice either of the parties and the trial court would apply its mind independently and decide the case in accordance with law.

[MANMOHAN]
Judge.

May 16th, 2008
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