

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ Crl. M.C. No. 1477 of 2008

Reserved on : . 07.05.2008

% Date of Decision: May 16th , 2008

Mr. Daulat Ram Gautam & Ors. Petitioner
! Through Mr. K.K. Sharma, Advocate

Versus

\$ State Respondents

^ Through Mr. Vikas Pahwa, Additional
Standing Counsel.

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 for quashing of FIR No. 353/2005 registered with Police Station Mangolpuri, Delhi under sections 406, 498A and 34 IPC as well as the proceedings now pending before the court of Ms. Rekha, Metropolitan Magistrate, Rohini Courts, Delhi.

2. The Petitioner Nos. 1 & 2 are the father and mother of Mr. Vipin Gautam i.e. the husband of the complainant Ms. Monika. The Petitioner's counsel Mr. Sharma states that Ms. Monika/Complainant has been treated by the Petitioner No. 1 as his niece and the Petitioner No. 1 had even performed the *bhaat* ceremony of the elder sister of the Complainant. It is pertinent to mention that the *bhaat* ceremony is performed at the marriage of a girl by her maternal uncle. Mr. Sharma states that the Petitioner Nos. 1 & 2, their relatives and friends had never consented to the marriage of the Complainant with their son as the said marriage was against their will and without their knowledge. He further urges that the Complainant and Mr. Vipin had always resided separately from the Petitioners. He also refers to documents to show that the Petitioner Nos. 1 & 2 had not only disowned their son Mr. Vipin on 28th March, 2004 but had also filed complaints with the local police on 2nd August, 2004 and 28th September, 2004, alleging harassment and threats by the parents of the Complainant. Learned counsel further submits that there are no specific allegations against the Petitioners either in the FIR or in the charge-sheet and the allegations levelled by the Complainant are vague, involving all the close and remote family members and it is a fit case where criminal proceedings against the Petitioners can be quashed at the threshold stage itself. Mr. Sharma

referred to and relied upon the judgment of this Hon'ble Court in **“Sangeeta Kalra Vs. State” reported in 138 (2007) Delhi Law Times 535** wherein it has been held that criminal justice system cannot be used as a tool for arm twisting and to settle scores and further that the High Court can intervene in such a situation.

3. Since only a charge-sheet has been filed, the complaint in my opinion in the present case can be quashed at this initial stage only if the allegations made in the complaint, if taken on their face value and accepted in their entirety do not constitute any offence against the Petitioners. Before I proceed any further I may refer to the complaint as extracted in the charge-sheet filed by the police. The relevant portion of the charge-sheet is as follows :-

“I reside in the above address, I got married on 28.3.2004 with Vipin Gautam, S/o Daulat Ram Gautam, R/o. H.No. 13 Summon Bazar, Jangpura Bhogal, Delhi in Arya Samaj Mandir, Mukhmelpur, Delhi. Marriage took place in accordance with Hindu customary rites. After marriage my husband took me at his residence in Bhogal. My Father-in-Law Daulat Ram Gautam [Petitioner No.1] called my father Radhey Shyam along with all family members and asked them to take me away from their house, but my brothers strongly objected this and thereafter I, stayed at

my in-laws house. On the same night in-laws beaten me up and also used abusive language. Next morning my husband Vipin Gautam took me in rented house No. Y-606 in Mangol Puri and after 2 months we have shifted to Y-611 in Mangol Puri. After that my father-in-law Daulat Ram Gautam [Petitioner No. 1], mother-in-law Smt. Narendri Devi [Petitioner No.2], Uncle Radhey Shyam (elder brother of father-in-law, two other uncles (younger brother of father-in-law) [Petitioner No. 3], Narendra [Petitioner No.4], Satish [Petitioner No.5]. Vipin's aunt & uncle's son Sunil [Petitioner No.7] & Vikas [Petitioner No.6], Hemant (Vipin's jeeja or Brother-in-law) [Petitioner No.9], Chandrakanta (Vipin's Sister) [Petitioner No.10], Vipin's aunt Ramwati [Petitioner No.8] visited the house from time to time and thereafter they have started taunting and harassing me by using abusive/rude language that I did not bring any dowry from my house. They insisted for bringing money from my house or otherwise commit suicide by consuming poison. We would get our son married to somebody else. My husband demanded residential house, motor cycle and cash of Rs. 75,000/- for running a computer business and when I refused for the same, he started beating me up. The purpose behind this marriage is to fulfill his physical desire and to extort money. He succeeded in his fulfillment of his intentions. Whenever my in-laws visited, they used to abuse me and used to instigate my husband to thrash me and as a consequence, my husband used to

beat me but they never intervened to stop this. They used to force me to bring money and dowry and told my husband to leave me so that they could collect articles & money by second marriage. In June 2004 Sunil, along with both uncles Satish [Petitioner No.5] and Narendra [Petitioner No.4], uncle Hemant (jeeja) [Petitioner No.9] came at Y-Block residence in Mangol Puri and at that time Vipin was not at home, these people abused me and beaten me up and they left me with the warning that either I should leave Vipin or bring dowry from my house. One day Chandrakanta [Petitioner No.10], Mayawati (bua), mother-in-law Narendri Devi [Petitioner No.2] & Hemant [Petitioner No.9] came at our house and started abusing me, also they poured hot oil over me and I got my right hand burnt. I complained to my husband about this but he stopped me to complain to the police and got me privately treated. These people demanded dowry and harassed me on one pretext or the other. At that time Radhey Shyam (Tau) [Petitioner No. 3] & his son Vikas were also present there. My sister-in-law Chandrakanta [Petitioner No.10] caught hold of my hand and my mother-in-law and aunt poured the oil over me. These people used to harass me for not bringing dowry. I used to earn my livelihood by taking tuitions. During this period my father Radhey Shyam got retired. At my instance, my father gave Rs. 75,000/- to Vipin and 4 Gold bangles, a Necklace, 3 rings, God Chain weighting in all 113-620 gm to me for my happiness. But thereafter also these people

were not happy and demanded more dowry form me. After sometime of my marriage, I got pregnant in June 2004 but in-laws, mother-in-law and father-in-law, aunt (Bua) Mayawati instigated my husband to abort the child and I refused my husband from doing this, then he beaten me up and warned me that he would leave her. Having no options left, I aborted the child but even thereafter the cruel behavior of my husband & in –laws did not come to an end. These people instigated my husband to beat me up. On 15.4.2005 my husband thrashed me and left me alone while taking along with him all the gold jewelry, cash and thereafter did not return back. On 19.4.2005 I went to my parent’s house at Keshav Puram. Since then my husband did not return to take me back. In this manner my husband, in-laws and other members harassed in different manners. I have been beaten up and dowry has been demanded on various occasions. On my refusal, I was beaten up and suffered mental as well as physical injuries and left me after taking jewellery and cash. My husband, Vipin Gautam and his family members and other relatives who are above named, a legal action may be taken and my jewellery, cash be returned to me.”

4. On reading of the complaint I cannot say that the allegations levelled against the Petitioners do not prima facie make out a case against the Petitioners. At this stage, I also cannot rely upon the

documents filed by the Petitioners as their veracity has yet to be tested. Surely, if the Petitioner's version and the documents are correct then the complaint as filed would not be sustainable, but then that is for the trial court to decide after hearing all concerned.

5. The case of Sangeeta Kalra referred to by Petitioner's counsel would not be applicable in as much as in the said case this Hon'ble Court found that the Complainant had after voluntarily leaving her matrimonial home suddenly changed colours and made allegations of dowry demand, cruelty and used language which is not used by a civilized persons. In the present case there is no such admission by the Complainant either in the complaint or in any of the documents filed by the police along with the charge-sheet. Consequently, the said case is of no relevance to the present facts of the case.

6. Mr. Sharma says that today it has become quite common for the wives to file complaints against all the family members of the husband. However, at this stage I cannot reach this conclusion in the present case. I may mention here that the matter is now fixed for framing of charge before the trial court. At that stage the trial court undoubtedly has the power to sift and weigh the evidence for finding out whether or

not a prima facie case against the accused has been made out. Consequently, it would be open for the petitioners to urge at the charge stage that the material placed before the court do not disclose grave suspicion against the accused and on this account they need to be discharged.

7. Therefore, 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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