

Court No. - 87

Case :- APPLICATION U/S 482 No. - 16312 of 2013

Applicant :- Smt. Geeta And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Mohd. Naushad Siddiqui

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Neeraj Tiwari,J.

1. Heard learned counsel for the applicants and learned AGA.
2. Present 482 Cr.P.C. application has been filed seeking quashing of summoning order dated 27.04.2013 as well as entire proceeding of Complaint Case No. 201 of 2013(Reena Vs. Uma Shankar & others), under Section 498A, 323, 504, 506 IPC and Section 3/4 Dowry Prohibition Act, Police Station-Kotwali, District-Fatehgarh, Farrukhabad pending before Civil Judge (J.D.)/ J.M., Hawaii, Farrukhabad.
3. This Court vide order dated 14.5.2013 has issued notice to opposite party no. 2 and as per office report dated 27.1.2020, notice duly served upon opposite party no. 2, but till date, no one has put in appearance on behalf of opposite party no. 2.
4. At the very outset, learned counsel for the applicants submitted that applicant no. 3 was given liberty by this Court vide order dated 14.05.2013 to surrender and obtain bail, therefore, present application may be confined to applicant nos. 1 and 2 only.
5. Learned counsel for the applicants submitted that applicant nos. 1 and 2 are unmarried sister-in-law (*nanad*) and brother-in-law (*dewar*) of opposite party no. 2 and having nothing to do with the incident took place, but they have been falsely implicated in the present case. He next submitted that in light of judgment of Apex Court in the matters of ***Geeta Mehrotra and Another Vs. State of U.P; 2012 (10) SCC 741*** and ***Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors.; 2022 LiveLaw (SC) 141***, criminal proceeding against the family members under Section 498A I.P.C. along with other sections is not maintainable. He further requested that present proceeding may be quashed.

6. Learned AGA though opposed, but could not dispute the legal submissions raised by learned counsel for the applicants.

7. I have considered the rival submission raised by learned counsel for the parties and perused the record as well as judgment relied upon. At the time of incident, applicant nos. 1 and 2 are unmarried sister-in-law (*nanad*) and brother-in-law (*dewar*) of opposite party no. 2 and there is no rebuttal that the same would be treated corrected. The very similar issue was considered by the Apex Court in the matter of **Geeta Mehrotra (supra)**. Relevant paragraph is quoted below;

“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

“there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.” The view taken by the judges in this matter was that the courts would not encourage such disputes.”

8. The Apex Court has held that High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation. In present case, husband- applicant no. 3 is already facing trial and therefore, there is no occasion to continue the criminal proceeding against applicant nos. 1 and 2, who are family members.

9. Again, the similar issue was before the Apex Court in the matter of **Kahkashan Kausar @ Sonam (supra)**. Relevant paragraphs are quoted below;

“22. Therefore, upon consideration of the relevant circumstances and in the

absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.

23. In view of the above facts and discussions, the impugned order dated 13.11.2019 passed by the High Court of Patna is set aside. The impugned F.I.R. No. 248 of 2019 against the Appellants under Sections 341, 323, 379, 354, 498A read with Section 34 IPC stands quashed."

10. Considering the judgment of ***Geeta Mehrotra (supra)*** as well as many other judgments, Apex Court has taken the very same view that criminal proceeding shall not be permitted to continue against the relative of the complainant.

11. So far as present case is concerned, undisputedly, applicant nos. 1 and 2 are unmarried sister-in-law (*nanad*) and brother-in-law (*dewar*) of opposite party no. 2 and has been roped in the present proceeding only due to relationship of applicant no. 3, who is husband. Therefore, in light of aforesaid facts as well as law laid down by the Apex Court in the matters of ***Geeta Mehrotra and Another Vs. State of U.P; 2012 (10) SCC 741*** and ***Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors.; 2022 LiveLaw (SC) 141***, such criminal proceeding is not maintainable.

12. Accordingly, application is **allowed** and proceedings of the aforesaid case is hereby quashed so far as it relates to applicant nos. 1 and 2 only.

13. No order as to costs.

Order Date :- 1.11.2023

Arvind