



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

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Date of Decision: 27.05.2024

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CRL.M.C. 3820/2023 & CRL. MA 14350/2023

KRISHAN GOPAL YADAV & ORS.

..... Petitioners

Through: Mr. Hitesh K. Bhardwaj, Advocate

versus

THE STATE GNCT, DELHI & ANR

..... Respondents

Through: Mr. Aashneet Singh, APP for State
with SI Vikas PS M.S. Park, Delhi.
Mr. Nitin Saluja and Ms. Ishita Soni,
Advocates for respondent No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present petition filed under Section 482 Cr.P.C., the petitioners seeks to assail the common order dated 20.03.2023 passed by learned Principal District and Sessions Judge, Shahdara, Delhi in Criminal Revision Nos. 97/22, 100/22 and 106/22, whereby the order dated 23.05.2022 passed by learned MM (Mahila Court-03), Shahdara, Karkardooma Courts, Delhi came to be upheld.

2. Facts necessary for adjudication of the present petition are that marriage between respondent No.2 and one Anupam Yadav (son of petitioner Nos.1 and 2) was solemnised on 16.03.2002 and out of their wedlock, two children were born. Subsequently, respondent No.2 filed a complaint dated 25.06.2019 with CAW Cell, which culminated in the



underlying FIR being FIR No. 361/2019. In the complaint, respondent No.2 alleged that the petitioners wanted to throw her out of the house and that they demanded dowry from her and also used to beat and abuse her. She further stated that she had made two PCR calls in the last 4 years. She further alleged that her father-in-law (petitioner No.1) had also threatened her. Further, she also levelled allegations against her husband and nephew.

Investigation was undertaken in the present case, whereafter chargesheet came to be filed against the petitioners and husband of respondent No.2 namely *Anupam Yadav*. After perusal of the material placed on record, learned MM, vide order dated 23.05.2022, framed charges under Section 498A/34 IPC against the petitioners and Anupam Yadav. Further, charge under Section 509 IPC was also framed against petitioner No.1.

3. Aggrieved by the said order of framing charge, the petitioners preferred separate revision petitions which came to be dismissed vide the impugned common order. It was observed that prima facie, the chargesheet and the complaint filed by the complainant had sufficient allegations against the petitioners (revisionists therein) for their prosecution.

4. In the present proceedings, learned counsel for the petitioners has contended that the petitioners have been falsely implicated in the present case and that the complaint filed by respondent No.2 contain general, ambiguous and omnibus allegations against the petitioners. It is further contended that the aforesaid complaint and resultant proceedings have been initiated as a counterblast. It is stated that petitioner Nos.1 and 2, distressed by the atrocities of respondent No.2, had asked her to vacate the property vide legal notice dated 17.05.2019, however, she refused to do so.



Subsequently, petitioner Nos. 1 and 2 filed an application before Maintenance Tribunal under Maintenance & Welfare of Parents & Senior Citizens Act, 2007 on 24.06.2019, in counterblast to which, the subject complaint came to be filed by respondent No.2. It is contended that insofar as charge framed against petitioner No.1 under Section 509 is concerned, the same carries sentence of three years and the limitation for taking cognizance of the same is three years under section 468 Cr.P.C.

5. Learned counsel for respondent No.2, on the other hand, has defended the impugned common order by contending that the same has been passed after due consideration of the facts and circumstances of the case. It is contended that the present petition is a second revision in the garb of Section 482 Cr.P.C., and that the same is barred in terms of Section 397(3) Cr.P.C. Further, it is contended that a perusal of the complaint filed by respondent No.2 as well as the statement of witnesses recorded under Section 161 Cr.P.C. would show that sufficient allegations have been levelled against the petitioners warranting prosecution under Section 498A and 509 IPC.

6. I have heard learned counsels for the parties and have also perused the entire material placed on record.

7. At the outset, it is informed that petitioner No.2 has since expired and therefore, the present petition is pressed only qua petitioner Nos.1 and 3 (hereinafter, *'the remaining petitioners'*).

8. The prime contention raised by learned counsel for the remaining petitioners is that only general and omnibus allegations have been levelled by respondent No.1. In her complaint filed before CAW Cell which culminated in the underlying FIR, respondent No.2 made general allegations against the remaining petitioners inasmuch as she stated that “my



mother-in-law [petitioner No.2 herein] and father-in-law [petitioner No.1 herein], sister-in-law/jethani Madhu Yadav [petitioner No.3 herein] want to throw me out of this house. That's why they demand dowry from me every day and abuse & beat me. I have saved my life and my children by calling the police on 100 twice in last 4 years." Even so, the allegations levelled do not prima facie meet the threshold of the constituents of the offence under Section 498A IPC. Further, while respondent No.2 does state that petitioner No.1 threatened her, however, that in and of itself without specific details cannot form the basis for prosecution under Section 509 IPC.

9. Further, in her statement dated 06.01.2020 recorded under Section 161 Cr.P.C., respondent No.2 has mentioned above two incidents. The first incident relates to 29.12.2005, wherein it is alleged that on the said date, the petitioners alongwith *Anupam Yadav* assaulted respondent No.2 whereafter she got her treatment done at East Delhi Medical Center. The second incident relates to 25.01.2006, wherein it is alleged that on the said date, her husband *Anupam Yadav* had beaten her.

Statement of father of respondent No.2 (*Balbir Singh*) was also recorded wherein he mentioned about the incident of 25.01.2006 and further stated that he had given more dowry than his capacity and further that his daughter's in-laws were greedy. Statement of brother of respondent No.2 (*Ashwani Yadav*) was also recorded wherein he also stated about the payment of dowry and greed of respondent No.2's in-laws on similar lines as his father. Statement of sister of respondent No.2 (*Meena Yadav*) was also recorded wherein she stated that respondent No.2 had told her about her in-laws used to treat her badly and that respondent No.2 also told her about the incidents that took place on 29.12.2005 and 25.01.2006.



10. A perusal of the complaint filed by respondent No.2 as well as the statements of the witnesses recorded under Section 161 Cr.P.C. would show that respondent No.2 has only levelled general and omnibus allegations against the remaining petitioners. While it has been alleged that the remaining petitioners used to beat and harass her however, no details of demand have been stated or provided by respondent No.2 either in her complaint or in her statement. As regards Section 509 IPC, even the charges framed against petitioner No.1, copy of which has been placed on record, does not mention any detail. The charge simply mentions that “*during the period from 16.03.2002 till filling of the complaint... on unknown date and time insulted her by using filthy language...*” Indisputably, the cognizance for the said offence was taken beyond the period of limitation.

Moreover, w.r.t the two incidents mentioned in her statement under Section 161 Cr.P.C., no allegation that dowry demand was made has been levelled w.r.t the alleged incident that took place on 29.12.2005 in which the remaining petitioners are also stated to be involved. Even the medical/doctor’s prescription for the treatment of respondent No.2 after the alleged incident, copy of which has been placed on record, only mentions about headache and vomiting without any sign/mention of physical assault. Further, as far as the second incident of 25.01.2006 is concerned, the allegation of beating has been levelled only against the husband *Anupam Yadav*.

11. In Shashikant Sharma v. State of Maharashtra reported as **2023 SCC OnLine SC 1599**, on the aspect of framing of charge, it has been observed that:-

“12... There cannot be any quarrel with the principles laid down



in the judgments cited by the State counsel in the written submissions that at the stage of framing of charges, the Court is not required to undertake a meticulous evaluation of evidence and even grave suspicion is sufficient to frame charge. Nevertheless, there is also a long line of precedents that from the admitted evidence of the prosecution as reflected in the documents filed by the Investigating Officer in the report under Section 173 CrPC, if the necessary ingredients of an offence are not made out then the Court is not obligated to frame charge for such offence against the accused. Reference in this regard may be made to the judgment rendered by this Court in the case of Suresh @ Pappu Bhudharmal Kalani v. State of Maharashtra, (2001) 3 SCC 703 : AIR 2001 SC 1375.”

12. On the aspect of soundness of the charges framed, it must be noted that while it is true that at the stage of framing of charge, the Court is not required to enter into a detailed analysis of the facts and circumstances of the case in order to determine the veracity of the allegations, however, at the same time, the Court is required to ensure that the evidence prima facie shows that the ingredients of the offence are made out and the commission of the alleged offence can be attributed to the accused(s). However, in the present case, upon a prima facie consideration of the factual situation and a reading of the FIR as well as the statement of witnesses placed on record, this Court is of the considered opinion that the prosecution case lacks material allegations against the remaining petitioners and hence, the charges framed against them are liable to quashed.

13. Resultantly, the petition is allowed the charges framed against the remaining petitioners under Section 498A/34 IPC are quashed and further, the charge framed under Section 509 IPC against petitioner No.1 is also quashed.



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14. The petition alongwith pending application is disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

MAY 27, 2024
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