

\$~18

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

Judgment delivered on: 16th October, 2015

+ **CRL.M.C. No.5376/2014**

MADHU BALA & ORS Petitioners

Represented by: Mr. M. Shamikh, Advocate.

Versus

STATE Respondent

Represented by: Mr. Mukesh Kumar, Additional
Public Prosecutor for the State with
SI Subhash Kumar, P.S. Shahadara.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CRL.M.C. No.5376/2014

1. By way of this petition under Section 482 of the Code of Criminal Procedure, 1973, the petitioners have assailed the order dated 15.10.2014 passed by the learned Additional Sessions Judge in Criminal Revision No.18/13.

2. On the complaint made by the complainant, FIR No.111/2010 was registered at Police Station Shahadara, Delhi, for the offences punishable under Sections 498-A/406/34 IPC. After investigation, police filed the chargesheet before the learned Trial Court. While taking cognizance, the learned Magistrate vide its order dated 25.11.2013 discharged the petitioners.

3. Being aggrieved, the complainant and the State filed the aforesaid Criminal Revision No.18/13, which was allowed by the learned Additional Sessions Judge vide impugned order dated 15.10.2014.

4. It is not in dispute that no complaint was ever made against the petitioners before the present complaint in issue. The complainant left the matrimonial house on 12.06.2009 and on the said date she called up at number 1000 and made a statement to the police which is at page No. 96. Typed copy of the same is at page No.97, which reads as under:-

“ It is stated that I reside at the above said address and my marriage was solemnized on 23.11.2005. Since the day of my marriage till date I was given beatings abusing. Today on 12.06.2009, at about 7 PM, my husband under the influence of liquor gave beating and went away from the house. I am going to my parental home with my parents. Necessary action be taken. You have recorded my statement, heard and the same are correct. I am going with my father in empty hands.”

5. Thereafter, the complainant approached the CAW Cell vide complaint dated 16.06.2009 and made allegations against the petitioners, which was culminated into the FIR mentioned above.

6. It is pertinent to mention here that after making the complaint on 16.06.2009, the husband of the complainant expired on 21.06.2009. No other complaint was filed against the petitioners before filing the complaint before the CAW Cell and in her statement dated 12.06.2009; the complainant did not make any allegations against the petitioner except her husband, who already died on 21.06.2009. It is true that in the

complaint dated 16.06.2009, there are allegations against the petitioners. However, the same are an afterthought and have been made to implicate the petitioners in this case for the reasons best known to her. Husband of the complainant has died immediately after filing complaint with CAW Cell. The learned Trial Court has rightly recorded that there is no medical document on record to show that the complainant was ever treated with cruelty. There was no allegation against the petitioners in the statement recorded by the police on 12.06.2009 when the complainant left her matrimonial house, wherein she specifically stated that her husband under the influence of liquor, for no reason, used to beat her and due to said reason she left the matrimonial house. Moreover, the petitioners had paid an amount of Rs.2,00,000/- at the stage of bail.

7. Keeping in view the facts recorded above, I confirm the order dated 25.11.2013 passed by the learned Metropolitan Magistrate and set aside the order dated 15.10.2014 passed by the learned Additional Sessions Judge in Criminal Revision No.18/13.

8. In view of the above, the present appeal is allowed.

Crl. M.A. No.18335/2014 (for stay)

With the disposal of the petition itself, the present application has become *infructuous*. The same is dismissed accordingly.

**SURESH KAIT
(JUDGE)**

OCTOBER 16, 2015
Sb/jg