

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

+ **CRL.M.C. 1423/2014**

Date of Decision: July 12th, 2016

STATE

..... Petitioner

Through Ms.Manjeet Arya, Additional Public
Prosecutor for the State.

versus

LAKSHMI KHANDELWAL & ANR

..... Respondents

Through In person.

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

P.S.TEJI, J.

1. The present petition has been filed by the State under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the "Cr.P.C.") for quashing the order dated 18.07.2013 passed by the learned Additional Sessions Judge; quashing the order dated 20.11.2012 passed by the learned Metropolitan Magistrate and to direct the learned Magistrate to frame the charge under Section 498A IPC against the respondents.

2. The factual matrix, in brief, is that the complainant Mamta Khandelwal made a complaint to the police that her marriage was solemnized with accused Ashok Khandelwal on 04.07.2006 according to Hindu rites and ceremonies. In the marriage, valuable articles were given. It was alleged that the complainant was

tortured and she was meted out with cruelties on account of demand of dowry. A demand of motorcycle and Rs.5 lakhs was raised on various occasions. It was also alleged that accused Lakshmi and Ashok used to taunt the complainant for not bringing sufficient dowry.

3. On the basis of the complaint made by the complainant, FIR No.128/2007, under Sections 498A/406/34 IPC, Police Station Uttam Nagar was registered against the respondents Lakshmi Khandelwal, Ashok Khandelwal and other accused persons. Arguments on charge were heard and vide impugned order dated 20.11.2012, the Court below discharged all the accused persons for the offence under Section 498A IPC. Except the respondents-herein, remaining accused persons were also discharged for the offence under Section 406 IPC. However, charge under Section 406 IPC was ordered to be framed against the respondents-herein. The State had preferred a revision petition against the discharge of respondents Lakshmi Khandelwal and Ashok Khandelwal before the Court of Sessions. The Court below vide order dated 18.07.2013, dismissed the revision petition filed by the State.

4. Feeling aggrieved by the orders passed by the Courts below, the instant petition has been filed by the State.

5. I have heard the arguments advanced by the learned Additional Public Prosecutor for the State as well as by the respondents.

6. Learned Prosecutor has argued that there is sufficient material on record to frame charge against the respondents under

Section 498A IPC as it was specifically alleged against them that since marriage, the complainant was harassed or tortured by the accused persons on account of demand of dowry. There is specific demand of motorcycle and Rs.5 lakhs by respondent no.2. It was further argued that at the time of framing the charge, the Court is not required to go into the probative value of the material on record and the Court is to form opinion regarding commission of offence only.

7. Perusal of complaint made by the complainant to the police which form the basis for registration of FIR shows that there is no whisper of demand of any motorcycle or cash of Rs.5 lakhs in the entire complaint. It was merely mentioned that the respondents used to taunt her as it would have been better if she had brought the motorcycle or Rs.5 lakhs in the marriage. Though, in the complaint it is mentioned that the complainant was taunted with regard to articles given in the marriage, but there is no allegation of any cruelty or harassment with regard to demand of dowry. In the entire complaint, no specific role of any of the accused has been mentioned.

8. The offence under Section 498A IPC is covered only where the husband or any relative of the husband had subjected a woman to cruelty in relation to demand of dowry. In the present matter, though it is mentioned in the complaint that taunts were made with regard to articles brought in the marriage, but there is no whisper with regard to any cruelty or harassment meted out to the complainant on account of demand of dowry. In the absence of

any such specific allegation, it cannot be said that any case under Section 498A IPC is made out against the respondents.

9. No doubt it is a settled law that at the time of framing the charge, the Court is required to examine as to whether there exists strong suspicion or not. But in the present case this proposition of law is not applicable for the reasons that there is no statement, evidence or material against any of the accused to frame charge against them for the offence punishable under Section 498A IPC.

10. In view of the above mentioned discussion, this Court is of the considered opinion that no case is made out to quash the impugned orders passed by the Courts below as there is no material to frame charge under Section 498A IPC against the respondents-herein.

11. Consequently, the present petition and application, if any, are dismissed.

JULY 12, 2016
dd

(P.S.TEJI)
JUDGE