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

+ **CRL.M.C. 1202/2011**

SANJEEV MADAN & ANR

..... Petitioner

Represented by: **Mr. Haneef Mohammad, Adv.**

versus

STATE & ANR

..... Respondent

Represented by: **Ms. Rajni Gupta, APP.**
Mr. Rajesh Ranjan, Ms. Neha
Rajpal, Advs. for R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
22.09.2016

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1. Petitioners Sanjeev Madan and Rajeev Madan, the husband and brother-in-law of the complainant Moly Madan respectively were discharged for offences punishable under Section 498A/406 IPC in case FIR No. 296/2005 lodged by the complainant under Section 498-A/406 IPC at P.S. R.K. Puram vide order dated 7th August, 2008.

2. Aggrieved by the said order Moly Madan filed a revision petition before the learned ASJ challenging the order discharging the petitioners for offences under Section 498A/406 IPC. Vide the impugned order dated 7th October, 2010 the learned ASJ held that on the allegations of the complainant a case for framing of charge against the petitioners was made out and revision petition filed by Moly Madan being Criminal Revision No.

95A/08 was allowed.

3. Though a detailed complaint was filed by Moly Madan, however some of the relevant portions of the FIR are as under:

“And the same I informed to my husband about the matter but he showed me a sign of helplessness and told me that this was a custom and even he didn’t know that we are petty small family who could not provide their daughter with thus minimum requirements. On the top of it, he said it is a matter of elders and he didn’t want to involve, then I got back to my parents and told them everything. They were shocked and were forced to buy some items like T.V., washing machine, geyser, mixer, gas stove and gifted to me. But couldn’t get gold items for my mother-in-law and relatives. Now my MIL started beating me in front of neighbour (where I was married and brought) and insulted me saying that I belong to such a bagger family where the girl is just thrown to the boys house without any gifts for her or the relatives. In the mean while she snatched all my entire jewellery which is till date with her and instructed me to hand over my salary on 30th June. On my every salary day she took my entire salary and I had to beg for pocket money to my husband. Now the scenes of the house was changed and it was a route that my husband used to come late intentionally and my mother-in-law and brother-in-law used to insult and beat me over in front of neighbours. And as in our Indian society, nobody gets involved in other matters and prefers closing their eyes. On 9th September 1996 when I was fasting they didn’t provide me food in the night after fasting and brutally beat me in front of my husband and she asked Sanjeev that he is not possessed to sleep with me till their demands are fulfilled. The while night I was weeping and I had all blues on my body due to the beating of my mother-in-law and brother-in-law. Next day early morning I went to my hostel and showed all my marks and swelling on the body. They advised me to lodge a complaint. Then I reached my office and showed the marks and swelling on the body to my office colleagues also. They suggested me either speak to Sanjeev out of the house or lodge a complaint in the police. Then I called up Sanjeev out of the

house to lodge a complaint in the police. The I called up Sanjeev in the office and asked him to meet somewhere out of the house in the evening after the office hours in the restaurant. I told him that I was unable to bear with this hell and give a look at all my blue marks. I also told him that I was feeling ashamed to call him as my husband who cannot protect his wife from all this beating and torture. I told him clearly either he should shift with me to other house or I shall complaint in the police. He pleaded that there was one court case hanging for 4 years in the family against his brother, mother and himself in women cell and then Tis Hazari court and why I wanted to create another drama. So we came out of that house after my mother-in-law and brother-in-law cursed and abused after shifting now my husband and entirely spending his day after his office hours in his mother place stating that I cannot leave my mother alone because she has brought them up after their father has divorced their mother. Any way mother-in-law over the phone told me that now see that how she will snatch her son from me within no time. And she will make it sure that her son will divorce me. My brother-in-law came to my house one day and slapped me saying that I should prove that he slapped me. He said now I should wait and watch how differences are created between the two of us.

On 30th September 2000 he demanded for computer for which he wanted for his personal use and I bought him the same worth ₹40,000/- from my bank. On 27th January 2001 he again asked me to withdraw the maximum amount from GPF saving and give it to him for his brother's business I withdraw ₹75200/- on 9th February 2001 and the same amount was given to Sanjeev in instalments till 25th July 2002. Meanwhile his brother (Rajeev Madan) opened a cyber care at 101, Satya Niketan, New Delhi on 15th April 2002 with the money withdrawn from GPF Now Sanjeev was helping Rajeev to run the shop and was devoting his time after bank hours on the cyber cafe. Sanjeev was now intimate with a woman Miss Hansa who was a regular visitor of the cafe. On my several objections he continued keeping relationship with her.

Instead he told me on 12th January 2003 that I should at

least ask my father to sell off some portion of the property so that they can construct the house in which my mother-in-law was staying. When I spoke to my father, he refused to fulfil their demands. On 22nd January 2003 my mother-in-law abused me publicly in a marriage function. On my mother-in-law continuous pressure my husband on 3rd February 2003 persuaded me to sell my entire jewellery which I got it made during last six years of marriage from my motherly saving so their house can be reconstructed. On 4th February 2003 he sold off my entire jewellery worth ₹124500/- and asked me to deposit the cheque for clearing. I spoke to my father about the matter the next day and he instructed me not to handover the cash money to Sanjeev because my GPF money was also exhausted. On 6th February 2003, morning on my father's instructions my uncle took me to the bank and got the amount fixed in a deposit when Sanjeev had come to know about the fact he tried to persuade me to go and get fixed deposit cancelled and withdraw the money. After my strong refusal the news reached my in-law's ear. They were furious and they had beaten me brutally on 22nd February 2003 night. I told them clearly that I cannot fulfil their wish and if they want to construct the house they should apply for some loan from my bank through housing loan. Now Sanjeev hardly was seen in the house. He was either seen with Hansa or at mother-in-law's place and started accusing me of having an affair with any of my office colleagues or friends and other people. I told Sanjeev that he should stop troubling me and start staying at home or I shall knock the door of law. On saying this on 17th May 2003 night Sanjeev took me to mother-in-law's place and there my mother-in-law caught my hands and Rajeev and Sanjeev beat me with stick brutally. With severe pain in my body I complained to my father and he advised me to be calm and adjust to the situation so that my family doesn't break. He told me that one day they will be fed up asking for the money and with due course of time, they will cool down. On 19th May, morning I went to hospital and got some medicines and narrated the story to the nurse. But not possible staying with me when I cannot fulfil his demands. I told him he should not

leave me because I cannot survive without him. He told me that he is not bothered about the fact and left the house on the same day (19th May 2003). On 20th May 2003 evening after the bank hours I went to the cyber cafe to bring him back but he told me clearly he cannot offend his mother and if ever I can withdraw the fixed deposit. my father to sell some portion of the property and get money, then only I should contact him otherwise not. And he told me that now our marriage is going to get 7 years complete so no charge against him can be better if at all I leave the world that too keeping the entire family unblamed. I came in the night and purchased a bottle of poison and consumed it in the night after writing a letter taking the entire blame on myself stating nobody was responsible for the dead. I was hospitalized in Safdarjung hospital by Police and when I came back to senses after two days Sanjeev met me in alone and asked me not to speak anything against him and his family members otherwise he won't come and stay back with me. His brother and mother were absconding from the sight when their daughter-in-law was in a critical condition on the deathbed."

4. A perusal of the allegations as noted above clearly show that there is a continuous course of harassment meted out to the complainant and both the petitioners participated therein. Further there are allegations of entrustment of money and other items which have not been returned. Thus, in view of prima facie allegations for offences punishable under Sections 498A and 406 IPC learned ASJ committed no error in allowing the revision petition filed by Moly Madan..

5. There being no merit in the petition the same is dismissed.

MUKTA GUPTA, J.

SEPTEMBER 22, 2016

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