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

+ CRL.M.C. 1295/2015 & Crl.M.A. No.4758/2015

Date of Decision: 27<sup>th</sup> April, 2016

KULDEEP SINGH & ORS ..... Petitioners  
Through Mr.Dinesh Malik, Adv.

versus

THE STATE & ANR ..... Respondents  
Through Ms.Meenakshi Chauhan, APP for the  
State with SI Vikas Kumar, PS  
Bindapur.  
Mr.Rambir Singh, Adv. for R-2.

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

### **ORDER**

**P.S.TEJI, J**

1. The present petition has been filed by the petitioners under Section 482 of Code of Criminal Procedure, 1973, for setting aside/modification of the order dated 7<sup>th</sup> January, 2015 passed by learned Additional Sessions Judge-04, Dwarka Courts, New Delhi in Criminal Revision No.46/14, vide which the learned ASJ dismissed the above mentioned criminal revision preferred by the petitioners with the finding that the learned Trial Court had rightly framed the charge against the revisionists for the offences punishable under Sections 498A/406 of the Indian Penal Code. The petitioner inter alia sought for issuance of direction to

discharge the petitioners from the chargesheet.

2. The facts giving rise to the petition are within the narrow compass. The petitioner no.1/Mr.Kuldeep Singh is the father-in-law of the respondent no.2/Kusum while petitioner no.2/Mrs.Indrawati & petitioner no.3/Mrs. Kavita are her mother-in-law and sister-in-law respectively. The petitioners in this petition have alleged that the respondent no.2 falsely implicated the petitioners in the present case. It is stated that the behaviour of respondent no.2 towards the petitioners was very rude, abusive, cruel and disrespectful. It is the allegation of the petitioners that the husband of the respondent no.2 always took her side and they both started exerting pressure on the petitioner nos.1 & 2 for vacating the dwelling unit in their favour. It is stated that the respondent no.2 along with her husband left the house which belonged to in-laws and took all her valuable. A complaint was also stated to be made to the CAW Cell in the year 2008 but FIR was not made. It is stated that the respondent no.2/complainant and her husband sought share in the property.

3. A reply to the complaint filed by respondent no.2 before the CAW Cell, was filed by the petitioner no.1 in which he narrated the factual position of the conduct of the respondent no.2 and her husband. It is also submitted by learned counsel for the petitioners that the respondent no.2 had also taken divorce from her husband Bhupender Singh Malik.

4. It is submitted by learned counsel for the petitioner that on 18<sup>th</sup>

February, 2014, the Metropolitan Magistrate ordered framing of charge under Section 498A/406 IPC against the petitioners and a revision petition was preferred by the petitioners against the same which was dismissed by the Court of learned Additional Sessions Judge, Dwarka Courts, Delhi.

5. I have heard learned counsel for the parties and perused the records. Vide order dated 18<sup>th</sup> February, 2014, the Metropolitan Magistrate held that the complainant (respondent no.2 here) had levelled specific allegations of cruelty and harassment in connection with demand of dowry against all the accused persons and specifically stated that on 20<sup>th</sup> April, 2007 and 18<sup>th</sup> April, 2009, all accused persons including her father-in-law namely Mr.Kuldeep Singh, mother-in-law namely Mrs.Indravati and sister-in-law (nanad), had beaten her up and that they used to harass her for dowry demand while the accused persons had stated that the complainant/respondent no.2 along with her husband, had left the matrimonial house in the year 2008 and did not turn back and that they had not committed any cruelty against the complainant/respondent no.2. The complaint, which was recorded under Section 161 Code of Criminal Procedure, also revealed that the complainant had levelled allegations of demand of dowry in cash of Rs.2,00,000/- and a Santro car. Therefore, charges under Sections 498-A/406 IPC were framed by the learned Metropolitan Magistrate.

6. The learned Additional Sessions Judge (ASJ) while deciding revision petition preferred by the petitioners, held that there are specific allegations against the revisionists of inflicting dowry related cruelty on the complainant. The ASJ also held that there were sufficient materials on record which would indicate that the complainant was treated with cruelty by the petitioners with regard to dowry demand. It was also held that there were sufficient material on record which prima facie indicated that the complainant was treated with cruelty by the revisionists relating to dowry demand.

7. In ***Subhadra v. State*** reported in ***1996 IV AD Delhi 181***, it was held that at the time of framing the charge, the court has not to apply the same standard of test and judgment which it finally applies before recording a finding of guilt or otherwise. At this stage, what the court has to see is whether there is ground enough for presuming that the accused have committed the offence for which they have been charged. The court is not to judge the veracity and effect of evidence whether it will culminate in conviction.

8. In ***Smaty Machra and another v. State (Govt. of NCT of Delhi)*** reported in ***2007 Cr.L.J. 4341***, it was held that the considerations which are relevant at time of framing of charges and those at time of conclusion of trial are entirely different. While grave suspicion would entitle Court to frame charges, grave suspicion alone would not entitle Court to convict a

person in respect of said charges. If the Court has strong reasons to suspect that crime was committed by accused, then it would not be in error if it frames charges accordingly.

9. The Hon'ble Supreme Court in case of ***Soma Chakravarty v. State through CBI*** reported in ***AIR 2007 SC 2149*** in para 20 has held that the settled legal position is that if on the basis of material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction, the conclusion is required to be proved beyond reasonable doubt that the accused had committed the offence. At the time of framing of charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true at that stage.

10. In the judgment of Hon'ble Apex Court in case of ***Sajjan Kumar vs. Central Bureau of Investigation (2010) 9 SCC 368***, in which it was further held that at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused.

11. Our own Hon'ble High Court in a recent judgment in case of ***Shipra Rastogi v. State & Anr. 2012(1) JCC 448***, has also reiterated the above principle while observing that at the stage of framing charge, only thing that has to be seen is whether the allegations raise a grave suspicion of

commission of offence.

12. In view of the foregoing discussions and the judicial pronouncements, I am of the considered opinion that there are specific allegations against the petitioners of inflicting dowry related cruelty on the complainant and that the charges under Sections 406/498A IPC against the petitioners have been rightly framed.

The petition and application are dismissed.

**(P.S.TEJI)**  
**JUDGE**

**APRIL 27<sup>th</sup>, 2016**  
**aa**