

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

% Decided on: 8th September, 2016

+ CRL.M.C. 3301/2016

FAISAL QURESHI & ORS

..... Petitioner

Represented by: Mr. Ashraf Yusuf Khan, Adv.

versus

STATE & ORS

..... Respondent

Represented by: Mr. Ashok Kumar Garg, APP
with SI Anil, PS Chandni
Mahal.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

Crl.M.A. 14041/2016

Exemption allowed, subject to all just exceptions.

Crl.M.C. 3301/2016 & Crl.M.A. 14042/2016

1. Respondent No.2 Foziya Qureshi got registered FIR No.231/2013 under Sections 498A/406/34 IPC registered at PS Chandani Mahal against the petitioners i.e. Faisal Qureshi, her husband, Mohd. Yasin, the father in law, Sayara Begum, the mother in law, Aqeefa and Sayama, the two sisters in law.

2. Vide order dated 8th September, 2015, learned Metropolitan Magistrate discharged Aqeefa and Sayama for both the offences i.e. under Sections 498A and 406 IPC and directed that charge for offence punishable under Section 498A be framed against Faisal Qureshi, Mohd. Yasin and Sayara Begum whereas charge for offence punishable under Section 406 IPC

was made out only against Faisal Qureshi, the husband thus discharged Mohd. Yasin and Sayara Begum for offence punishable under Section 406 IPC.

3. The order dated 8th September, 2015 passed by the Metropolitan Magistrate was challenged by Fozia Qureshi, the complainant before learned Additional Sessions Judge in a revision petition who vide order dated 18th February, 2016 held that there was no infirmity in the order dated 8th September, 2015 discharging Mohd. Yasin, Sayara Begum, Aqeefa and Sayama for offence punishable under Section 406 IPC but prima facie charge for offence punishable under Section 498A IPC was also made out against Aqeefa and Sayama and thus revision was partly allowed and the learned Trial Court was directed to frame charge under Section 498A IPC against Aqeefa and Sayama as well. Hence the present petition by the petitioners Faisal Qureshi, Mohd. Yasin, Sayara Begum, Aqeefa and Sayama challenging the two orders dated 8th September, 2015 passed by learned Metropolitan Magistrate and 18th February, 2016 passed by learned Additional Sessions Judge besides seeking quashing of FIR.

4. The allegations of the complainant in the FIR are that her father had spent more than ₹5 lakhs in the marriage and had given ₹30,000/- in salami rituals and gifts worth ₹5 lakhs to the husband. Faisal Qureshi demanded a motorcycle for himself which was stolen on 15th March, 2011. She further alleged that her father in law sought a loan of ₹2.5 lakhs from her father for renovation of property in Jaipur and assured to return the same. Her father to build up the relations gave ₹2.5 lakhs on 19th April, 2011 however when her father asked for return of loan, her father in law Mohd. Yasin asked him to forget the amount. Thereafter her harassment started. It is alleged that on

27th June, 2011 the complainant was beaten by Faisal and Sayara for demand of dowry. Her husband besides other family members including the two unmarried sisters in law Aqeefa and Sayama started harassing the complainant including beating her. Her father took the complainant to Delhi. After 4 months, her father in law, mother in law and some other person came to pacify the matter and a meeting was organized in the home in which Mohd. Yasin and Sayara Begum also participated. Her father requested that they should forget the past and not harass his daughter on which Mohd. Yasin and Sayara Begum assured that they will not give any opportunity of complaint in future thus her father went back leaving her at her matrimonial home. She alleged that after some time again her harassment started wherein her mother in law and her two daughters used to beat her and even Faisal used to beat her after taking alcohol and threatened to divorce the complainant. She alleged beating one week before the delivery i.e. on 30th March, 2012 to the extent that bleeding started from her nose. On 25th July, 2012 when her father asked Faisal to bring Foziya to Jaipur, he asked him to talk to his parents. On her father talking to Mohd. Yasin, he demanded that the shop of his father at Delhi should be transferred in the name of Faisal and only then they will maintain relationship. It is stated that for the last 1½ years the complainant was residing with her father and Mohd. Yasin and Faisal have threatened that in case demands of dowry were not met, Faisal will give divorce to the complainant and perform second marriage.

5. From the allegations in the FIR as noted above, prima facie there are allegations of harassment and beating for demand of dowry attributed against all the petitioners and thus the charge was rightly directed to be framed for offence punishable under Section 498A IPC. Since the complainant has

sought return of her dowry articles, charge for offence punishable under Section 406 IPC is also made out against Faisal, the husband.

6. Finding no merit in the petition, the petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 08, 2016
‘v mittal’