

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

% Decided on: 25th September, 2018

+ **W.P.(CRL) 1683/2018**

NAVED HAIDER KAJMI & ORS Petitioners

Represented by: Mr. Arvind K. Srivastava and Mr.
Arvind Tiwari, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI) & ANR Respondents

Represented by: Mr. Rajesh Mahajan, Additional
Standing Counsel for State with ASI
Devinder Singh, PS Aman Vihar.
Mr. Ravinder Narwal, Advocate for
respondent No.2 with respondent
No.2 in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this petition, petitioners seek quashing of FIR No.1218/2017 under Sections 498A/406/34 IPC registered at PS Aman Vihar, New Delhi.
2. Respondent No. 2 lodged the above noted FIR against the petitioners stating that she was married to the petitioner No.1 on 28th March, 2015 according to Muslim Rites and Customs. In her marriage parents and relations spent money beyond their capacity spending ₹25 lakhs on jewellery, furniture, clothes, utensils and other utility items etc. and also gave one Wagon-R car. On the next day of marriage, her sister-in-law Seema stated that the dowry articles were less and they were getting more dowry from another alliance and atleast a car worth ₹10 lakhs ought to have been given and that she had just got an iron box for them. Her mother-in-law and other family members also harassed her mentally and physically and

tried to kill her by burning. The complainant thought that probably things would settle down however, the in-laws continued threatening her and stated that they would get her divorced and Naved would be re-married. Her mother-in-law stated that 15 tolas gold was less and she needed cash of ₹10 lakhs. The complainant was beaten when she was on the family way as well. After she gave birth to the child she was also abused about the looks of the child. Her sister-in-law used to instigate her mother-in-law, father-in-law, brother-in-law, sister-in-law and her husband who used to in turn beat her and assault her with fists and leg blows. She alleged that her in-laws used to beat her however, to save her matrimonial life she continued to tolerate all this.

3. Harassment to the complainant continued and on 19th April, 2016 her father had to sell his property to fulfill the demand of her in-laws and pay a sum of ₹5 lakhs to her husband and in-laws. Even on her brother's wedding her husband demanded ₹1 lakh and a gold chain of 20 grams. When she refused, her husband assaulted her, for which a complaint was lodged at PS Aman Vihar on 28th May, 2016. On 10th June, 2016 her husband came with certain elders and assured that they will keep the complainant properly and thus she was sent to the matrimonial home. Again on 22nd September, 2016 her husband assaulted her, her mother-in-law poured kerosene oil on her and did lot of drama. On the night of 22nd September, 2016 when her parents and brother came to her in-laws house, seeing her condition a call to PCR was made however, police officials forcefully got a settlement done. On 23rd September, 2016 complainant was thrown out of the matrimonial home with the child in the clothes she was wearing. Thus, the complainant demanded action and restoration of all her streedhan articles.

4. A status report has been filed. As per the status report on receipt of the above noted complaint parties entered into a settlement before the CAW Cell on 29th March, 2017 whereafter the complainant joined the company of the petitioner. However, on 1st August, 2017 the complainant again approached the office of the ACP, CAW Cell alleging that she stayed in her matrimonial home for four months but just after one month her husband again made a demand of Scorpio car and ₹5 lakhs and started harassing and torturing her to fulfil the demands. Hence after reopening of the complaint, above noted FIR was registered.

5. Learned Additional Standing Counsel for the State submits that after registration of FIR statement of the complainant was recorded under Section 164 Cr.P.C. pursuant whereof Sections 352/506/354/509 IPC have also been invoked. He states that charge sheet has been filed against the four petitioners without arrest wherein cognizance has been taken by the learned Trial Court.

6. The three arguments of learned counsel for the petitioners are that this Court has no territorial jurisdiction to entertain the complaint for the reason the matrimonial home of the complainant was in Meerut and offence, if any, was allegedly committed at Meerut. Secondly, the complainant filed a complaint before the Meerut Police and thus second complaint at PS Aman Vihar, CAW Cell, North West District, was not maintainable and thirdly that having condoned the offence and joined the company the complaint could not have been reopened the complaint and got the FIR registered and charge sheet filed thereon. Learned counsel further contends that during the proceedings before the CAW Cell, parties entered into a settlement on 29th March, 2017 whereafter the complaint was closed at the request of

respondent No. 2 and she joined the company of petitioner No. 1. There being no harassment by other petitioners, that is, petitioner Nos. 2 to 6 and the only allegations being against petitioner No.1 FIR could not have been registered against them and no charge sheet filed.

7. As regards the contention of learned counsel for the petitioner with regard to the territorial jurisdiction of this Court is concerned admittedly respondent No.2 is presently residing at Delhi and is accounting for all her streedhan items in Delhi, thus in view of Section 181 (4) Cr.P.C. this Court has territorial jurisdiction to entertain the complaint/charge sheet. As regards filing of an earlier complaint at PS Meertu no document has been filed by the petitioners to show the contents of the said complaint except Annexure-P2 to the present petition dated 23rd September, 2016 which is signed by all the parties stating that parties with the help of family friends have reconciled their disputes and Naved and complainant would reside together at the matrimonial home. The third contention of learned counsel for the petitioners stating that the complaint could not be reopened also deserves to be rejected. If in the course of reconciliation proceedings parties try to reconcile their differences and make an attempt to live together but do not succeed that does not condone the offences alleged by the complainant. The investigating agency was within its right to reopen the complaint and lodge the FIR and file the charge sheet on investigation.

8. Petition is dismissed.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 25, 2018
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