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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 3206/2016 & CRL.M.A.13690/2016 (Stay)
DAYACHAND & ORS. Petitioners
Through Mr. L.K. Giri with Ms. Anju Bharti,
Advts.

versus

STATE & ANR. Respondents
Through Mr. Panna Lal Sharma, APP for State
SI Anugrah, P.S. Krishna Nagar
Mr. Anupam Sharma, Adv. for R-2
with R-2 in person

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **09.04.2018**

The Trial Court Record has been received.

Submissions have been made on behalf of the either side qua the petition vide which petitioners No.1 to 3 i.e. Daya Chand, Satyawati and Preeti, father-in-law, mother-in-law and sister-in-law respectively of the respondent No.2 have assailed the impugned order dated 27.11.2015 of the Court of MM, Mahila Court, Karkardooma, Delhi whereby the petitioners were summoned and also the proceedings dated 10.06.2016 of the Court of ASJ-02 (East) Special Judge in Crl. Rev. No.175/16, whereby the petitioners assailed the summoning for the commission of the offence punishable under Section 498A read with Section 34 of the Indian Penal Code, 1860.

On behalf of the petitioner it has been submitted to the effect that the Trial Court and the Revisional Court did not take into account the factum that the settlement had been arrived at between the parties in the year 2002 and that the second complaint that was filed by respondent No.2 was only a repetition thereof with minor additions and that there were terms of settlement that were recorded in the handwriting of respondent No.2 herself. It was further submitted on behalf of the petitioner that the terms of the settlement have been abided with by the petitioners and that there was no interference whatsoever by the petitioners in the matrimonial life of the respondent No.2 with her spouse. The husband of respondent No.2 Mr. Ashwani Kumar Sharma who is also the brother of petitioner No.3 is facing the proceedings before the learned Trial Court.

A bare perusal of the complaint which was lodged with CAW Cell dated 17.04.2002 by the complainant and the subsequent complaint filed on 24.03.2005 by the respondent No.2, brings forth allegations vide paragraph No.15 onwards therein in relation to the alleged commission of offences punishable under Section 498A of the Indian Penal Code, 1860 by the petitioners No.1 and 2.

Vide the impugned order dated 10.06.2016 of the Revisional Court in Crl. Revision No.175/16 and Crl. Revision No.143/16, there have been observations in relation to the complaint made by respondent No.2 to the effect that on 13.03.2005 her spouse gave her a kick on the backside of her body and 2-3 slaps on her face, she was also beaten up by her mother-in-law and father-in-law with a thapi

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and her father in law also gave leg and fists blow on her stomach, dragged her from her hair whilst her mother-in-law asked her husband to throw her out of the house till such time she brought the dowry and that the husband of the revisionist, i.e., the respondent No.2 herein turned her out forcibly. On 24.03.2005 she has made a complaint to the Police. Vide paragraph 9 of the order dated 10.06.2016 of the Revisional Court, it was inter alia observed to the effect that there were allegations of harassment on account of dowry demands by the summoned accused persons i.e. Daya Chand, Satyawati, Sunita and Preeti which were specific, though it has also been observed to the effect that admittedly the matter had been compromised between the complainant and her husband and in-laws in the year 2002 after filing of her first complaint before the CAW Cell but before the Revisional Court, the complainant stated that she has compromised for the sake of her matrimonial life and for the future of her son.

But despite that in view of the allegations against the summoned respondents i.e. Daya Chand, Satyawati and Preeti regarding the physical harassment on account of dowry demands dated 13.03.2005, it having been observed that such allegations were corroborated by the medical evidence Ex.CW4/A i.e. MLC it was observed to the effect that there was *prima facie* sufficient grounds for proceedings against the summoned accused i.e. petitioners No.1 to 3 herein and that there was no illegality or perversity in the impugned order dated 27.11.2015 of the Trial Court summoning Daya

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Chand, Satyawati and Preeti.

In reply to a specific court query on behalf of the respondent No.2 it is admittedly affirmed that in the second complaint that has been filed in the year 2005 there are no allegations which are in addition beyond the allegations levelled in the complaint of 2002 against Priti as brought forth through the proceedings dated 10.06.2016. Also admittedly the matter has been compromised between the complainant, her husband and her in-laws in the year 2002 and that the second complaint had been filed subsequently. Thus to the extent that the impugned revisional order dated 10.06.2016 and the impugned order dated 27.11.2015, summoned the petitioner Preeti i.e. the respondent No.2 to the present petition qua the alleged commission of the offences punishable under Sections 498A read with Section 34 of the Indian Penal Code, 1860 the said order is set aside.

As regards the prayers made seeking that the summoning of the petitioners No.1 and 2, the alleged commission of the offences punishable under Section 498A read with Section 34 of the Indian Penal Code, 1860 is set aside, the prayer is declined and the petition to that extent is disallowed.

The Trial Court Record be returned.

ANU MALHOTRA, J

APRIL 09, 2018/ns

