

\$~31 to 33 (*common order*)

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

Decided on: 17th July, 2018

+ CRL.M.C. 577/2016

DAVENDER SINGH Petitioner
Through: Mr. Arjun Gadhoke, Advocate

versus

THE STATE OF NCT OF DELHI & ANR Respondents
Through: Mr. Akshai Malik, APP for the State
SI Kartar Singh, PS Bindapur
Mr. Vimal Puggal, Advocate for R2

+ CRL.M.C. 1924/2016

ANU PRABHA SINGH Petitioner
Through: Mr. Arjun Gadhoke, Advocate

versus

THE STATE OF N.C.T OF DELHI & ANR..... Respondents
Through: Mr. Akshai Malik, APP for the State
SI Kartar Singh, PS Bindapur
Mr. Vimal Puggal, Advocate for R2

+ CRL.M.C. 3020/2016

PRABHA SINGH Petitioner
Through: Mr. Arjun Gadhoke, Advocate

versus

STATE OF NCT OF DELHI & ANR Respondents
Through: Mr. Akshai Malik, APP for the State
SI Kartar Singh, PS Bindapur
Mr. Vimal Puggal, Advocate for R2

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. First Information Report No.229/2008 of Police Station Bindapur was lodged at the instance of Usha Singh, wife of Rishant Singh. The petitioners herein are the father, mother and sister of the said Rishant Singh. On the conclusion of investigation into the said FIR, report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was submitted in the court of Metropolitan Magistrate which took cognizance and summoned the said Rishant Singh and the petitioners herein. The question on charge came up before the Metropolitan Magistrate and, after hearing the parties, order was passed on 04.04.2015 by the said court holding that *prima facie*, a case for charge to be framed was made out only against Rishant Singh, Prabha Singh and Anu Prabha Singh that too only under Section 498-A IPC, consequently, discharging the other accused Devender Singh and the said accused persons for the accusation for offence punishable under Section 406 IPC. The State challenged the said order by Criminal Revision Petition No.58/2015 to oppose the discharge of the petitioners and Rishant Singh under Section 406 IPC, while petitioner Prabha Singh and Anu Prabha Singh challenged the said very order framing charge under Section 498A IPC, by Criminal Revision No.54/2015. The said revision petitions were heard by the learned Sessions Judge and decided by common order dated 23.09.2015.

2. The revisional court, upon re-appraisal of the evidence that has been presented before the trial court, found case made out for putting the petitioners herein on charge. It found charge was made out against Rishant Singh and Prabha Singh for offence punishable under Section 406 IPC and against all the accused for offences punishable under Sections 498A/406 IPC. It is the said view and the directions passed in the said order dated 23.09.2015 which are assailed by the petition at hand under Section 482 Cr.P.C.

3. The relevant para of the impugned order dated 23.09.2015 may be quoted thus:-

“12. In the present case from the bare reading of the complaint lodged by the complainant, which is the basis of the FIR No.229/08, registered with PS Bindapur and her statement recorded u/s 161 Cr.P.C., I am of the opinion that prima facie case is made out u/s. 498A IPC against Rishant Singh, the husband; Devinder Singh, father-in-law; Prabha Singh, mother-in-law and Anu Prabha Singh, sister-in-law as there are specific allegations against them that they demanded dowry from the complainant and on account of non-fulfillment of their demand she was treated with mental as well as physical cruelty. So far the offence u/s. 406 IPC is concerned there are specific allegations in the statement u/s. 161 Cr.P.C. dated 14.09.08 of the complainant that here jewellery is with her mother in law and she had refused to return the same despite her demand, that her father in law who was given Rs.2 lakhs at the time of her marriage through a mediator also on demand by the complainant refused to return the same. Similarly, the husband of the complainant who was possessing her

stridhan i.e. motorcycle, gold chain, gold ring, watch and clothes of the complainant refused to return the same on demand by the complainant. Hence, prima facie offence u/s. 406 IPC is made out against all these three accused So far, Anu Prabha Singh, the sister in law of the complainant is concerned, there is no evidence that she was entrusted with stridhan of the complainant or had refused to return the same. In view of the above discussion the impugned order of the trial court dated 04.04.15, whereby charge u/s. 498A IPC was framed against the husband Rishant Singh, mother in law Prabha Singh and sister in law Anu Prabha Singh, is modified to the extent that now charge u/s. 498A/406 IPC is liable to be framed against the father in law Devinder Singh and charge u/s. 406 IPC is also liable to be framed against husband Rishant Singh and mother in law Prabha Singh. With these observations, both the revision petitions stand disposed of accordingly." (emphasis added)

4. The aforementioned observations have been recorded by the revisional court on the basis of consideration of evidence which was presented. Even otherwise the question arises as to why there should be another scrutiny in exercise of the jurisdiction under Section 482 Cr.P.C. when the matter has already been considered by the revisional court at the instance of these petitioners.

5. This Court in an almost similar fact-situation, taking note of the decisions of the Supreme Court reported as *Krishnan Vs. Krishnaveni*, (1997) 4 SCC 241; *Rajinder Prasad Vs. Bashir*, (2001) 8 SCC 522 and *Kailash Verma vs. Punjab State Civil Supplies*

Corporation & Anr., (2005) 2 SCC 571 and following similar view taken by a learned single Judge of this Court in *Surender Kumar Jain vs. State & Anr.*, ILR (2012) 3 Del 99 in absence of a special case being made has earlier declined to interfere by the ruling (dated 03.07.2018) in Crl.M.C. 164/2018 *Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

6. There are no special circumstances made out in the case at hand for the revisional court's view to be disturbed.

7. The petitions are dismissed.

R.K.GAUBA, J.

JULY 17, 2018

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