

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

Date of Order: May 28, 2019

+ **CRL.REV.P. 97/2019 & CRL.M. A. 1625/2019**

STATE

..... Petitioner

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for State

Versus

ANIL NARANG & ANR.

..... Respondents

Through: Mr. Rajnish Kumar Gaud,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

Impugned order of 12th October, 2018 declines to frame charge under Section 406/34 IPC against first respondent, who is father-in-law of complainant and under Sections 498A/406/34 IPC against second respondent, who is sister-in-law (*nanad*) of complainant.

Learned Additional Public Prosecutor for petitioner-State submits that the complainant of 15th April, 2015, which is the basis of charge-sheet, justifies framing of charges for the offences under Sections 498A/406/34 IPC against respondents as there are specific allegations against the respondents. To submit so, attention of this Court is drawn to relevant paragraphs of the afore-referred complaint and the charge-sheet. So, it is submitted that respondents ought to be put on trial for the offences under Sections 498A/406/34 IPC.

On the contrary, learned counsel for respondents supports the impugned order and submits that trial court has rightly discharged the respondents in view of the statement made by complainant under Section 164 Cr.P.C.

Upon hearing and on perusal of the charge sheet of this case and the statement of complainant under Section 164 Cr.P.C., I find that before statement under Section 164 Cr.P.C. is acted upon, the complainant is required to be confronted with it during the course of her cross-examination. Such a view is taken because the allegations levelled against respondents in the charge sheet do *prima facie* make out a case for putting first respondent on trial for the offence under Section 406/34 of IPC and second respondent for the offences under Sections 498A/406/34 of IPC. Such a view is taken as Supreme Court in *State of Rajasthan Vs. Fatehkaran Mehdu* (2017) 3 SCC 198 has reiterated that no meticulous examination of the material on record is to be undertaken at the charge stage, to find out as to whether the material on record would end in conviction or not. What is to be seen at the charge stage is, whether the allegations made, *prima facie* make out a case against accused or not. Instant case is not the one, where the allegations levelled are patently absurd or inherently improbable.

In view of the above, impugned order is modified to the extent of putting first respondent on trial for the offence under Section 406/34 of IPC and the second respondent is put on trial for the offences under Sections 498A/406/34 IPC. Charges be accordingly framed by the trial court.

This petition and application are accordingly disposed of while modifying the impugned order to the aforesaid extent and by not commenting on merits of the case, lest it may prejudice either side at trial.

(SUNIL GAUR)
JUDGE

MAY 28, 2019
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