

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.207 of 2014

Shri Bhagabat Kamila and others *Petitioners*
Mr. S. S. Mohanty, Advocate on behalf of
Mr. S. K. Padhi, Senior Advocate
-versus-
State of Orissa and another *Opposite Parties*
Mr. J. Katikia, AGA

CORAM:
THE CHIEF JUSTICE

ORDER
20.05.2022

Order No.

04. 1. Despite service of notice and lawyer entering appearance on behalf of Opposite Party No.2, today none appears on her behalf.
2. The present application is by the two in-laws and the brothers-in-law and sisters-in-law of the Complainant questioning an order dated 27th September, 2013 passed by the S.D.J.M., Sadar, Balasore in C.T. No.2812 of 2012 corresponding to Balasore Town P.S. Case No.450 of 2012 dated 14th December 2012 against the Petitioners for the offences under Sections 498(A)/506/406 read with Section 34 IPC and Section 4 of the Dowry Prohibition Act, 1961.
3. At the outset, learned counsel for the Petitioners points out that the Petitioner No.1 has expired during pendency of the present petition. The husband is not one of the Petitioners in the present petition. We are concerned therefore with the mother-in-law, sisters-in-law and brothers-in-law of the Complainant.

4. Learned counsel for the Petitioners further points out that the marriage between the son of Petitioner No.1 and the Complainant has been dissolved by decree of divorce dated 17th March 2016 granted by the Family Court, Balasore in C.P. No.307 of 2012. Apart from placing the copy of the said judgment on record, learned counsel for the Petitioners also places the order sheets, which show that on 30th April 2016, the permanent alimony as directed by the Family Court has already been paid to the Complainant.

5. A translated copy of the Complaint on the basis of which the FIR was registered has also been placed before the Court. Learned counsel for the Petitioners relies on a judgment of the Supreme Court in ***Kahkashan Kausar @ Sonam v. State of Bihar, 2022 SCC OnLine SC 162*** where the Supreme Court observed that vague allegations in FIR registered for the offences under Sections 498(A) and 506 read with Section 34 IPC cannot be vague and unspecific. The Supreme Court in the said decision observed as under:

“18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

19. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, it is revealed that general allegations are levelled against the Appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the Appellants herein, i.e., none of the Appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."

6. In the present case too, on a perusal of the translated copy of the complaint, it is seen that although the marriage took place on 12th May 2008 and the complaint pertains to events that happened 8 days after the marriage, the complaint itself was filed only on 14th December, 2012. Further, there is a broad sweeping allegation against all of the present Petitioners about abusing the Complainant 8 days after the marriage "in filthy language" whereas the specific allegation of demand of dowry was made only against the husband.

7. The other allegations about denial food and abusing her both mentally and physically against the present Petitioners are totally vague and unspecific. It is almost similar to the allegations in ***Kahkashan Kausar @ Sonam*** (*supra*) as set out in para 19 of the judgment, which has been extracted hereinbefore.

8. Consequently, this Court in the above circumstances has no hesitation in quashing the order dated 27th September, 2013 passed by the S.D.J.M., Sadar, Balasore taking cognizance of the aforementioned offences in C.T. No.2812 of 2012 and all other proceedings and orders consequent thereto.

9. The CRLMC is allowed in the above terms, but in the circumstances, with no order as to costs.

10. Urgent certified copy of this order be issued as per rules.

S.K. Guin



(Dr. S. Muralidhar)
Chief Justice