

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-55452-2023
Date of decision : 06.11.2023**

Rajni Rani

....Petitioner

Versus

Union Territory of Chandigarh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Ritu Punj, Advocate for the petitioner.

Mr. Anupam Bansal, Addl. P.P., U.T., Chandigarh.

PANKAJ JAIN, J.

Challenge is to the order dated 3rd of January, 2018 (Annexure P1) passed by JMIC, Chandigarh in FIR No.34, dated 17th of May, 2017 registered for the offences punishable under Section 498A IPC, at Police Station WPS Chandigarh whereby respondent No.2 has been charged for offence punishable under Section 494 IPC but has been discharged *qua* offence punishable under Section 498A IPC. Further challenge is to the order dated 10th of April, 2023 passed by Additional Sessions Judge, Chandigarh whereby the revision preferred by the petitioner stands dismissed affirming the aforesaid order dated 3rd of January, 2018.

2. FIR was registered at the instance of the present petitioner alleging as under :

“To, the Senior Superintendent of Police, police Head Quarters, Chandigarh. Subject: Complaint of adultery and cheating against

Ashok Bajaj, resident of House No.378, Phase-7, Mohali. Sir, the complainant is married to Ashok Bajaj and has one daughter and son from this wedlock. Ashok one years back his parents, who are residing with us at Home No.3307/1, Sector 45-D, Chandigarh shifted to House No.378, Phase-7, Mohali. My husband kept on visiting tem and remained absent from house for numerous days nay times on the pretext of ill health of his mother. Now my husband has not come back for last quite time and had been telling us that he is residing with his parents at Mohali because of their ill health. I am residing with my daughter who is of 17 years. Now I have come to know that my husband is entangled with one lady named 'Ritika' from Morinda to Mohali and have kept her at House No.1127, Phase-10, Mohali as his wife. I have verified this fact personally and have got photographs of said lady which I am attaching alongwith this complaint. Sir, my husband is living in adultery with said 'Ritika' and has illicit relations with her. I am his married wife and there is no divorce till date not there is any matrimonial proceedings. Kindly save my and my life from ruining. We both are living on small salary which I get from Crech where I work on contract basis. A case of adultery and cheating be registered against Ashok Bajaj and also 'Ritika' who knowing that Ashok is married and has two children. Still lives with him as his wife. Thanking you, yours faithfully, Sd/- Rajni Rani xxx”

3. Ld. Trial Court at the time of framing charge found that *prima facie* case *qua* offence punishable under Section 498A IPC was not made out resultantly ordered discharge of the respondent/accused *qua* the said offence but framed the charges under Section 494 IPC. The petitioner preferred revision which stands dismissed by the Trial Court.

4. Ld. Counsel representing the petitioner asserted that both the

Courts below misdirected themselves in discharging the accused of offence punishable under Section 498A IPC and thus the impugned orders deserve to be set aside.

5. Having heard counsel for the parties and after going through records of the case, this Court finds that in order to appreciate the arguments being advanced by counsel for the petitioner it will be apt to peruse Section 498A IPC. The same reads as under :

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

6. As per settled law at the stage of framing of charge the test prescribed is “*prima facie*”. The Court is required to apply its mind as to whether *prima facie* offence from the material on record is made out or not.

7. The allegation against the respondent is of being in relationship out of marriage and thus subjecting the present petitioner to cruelty. Cruelty

which forms ingredient to constitute offence punishable under Section 498A IPC has been defined by the legislature in the provision itself.

8. The explanation makes it explicit that such cruelty with a view to coerce her or any person related to her must have relation w.r.t. unlawful demand for any property or valuable security or on account of failure on part of her or any person related to her to meet with such demand. There is no allegation w.r.t. explanation as adumbrated in clause (a). The allegation is of harassment which falls within clause (b). Since the harassment alleged to the petitioner has no relationship with any demand for any property or valuable security, this Court does not find that there is any legal infirmity in the orders passed by the Courts below warranting interference in the present petition filed under Section 482 Cr.P.C. Resultantly, the present petition is dismissed.

November 06, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No