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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2012/2023**

ANIL KUMAR AND ANR

..... Petitioners

Through: Mr. Randhir Kumar Bali, Advocate

versus

THE STATE AND ANR

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Vikal Singh, ASI Munni Khan

Mr.D.K. Singh, Mr.Priyam Pandey, Ms.Savita
Singh, Ms.Perna, Mr.Manu Bhardwaj, Ms.Indu,
Ms.Swati, Advocates for Respondent No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

07.05.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioners seek to assail order dated 25.02.2023 passed by learned ASJ-02, Shahdara, Karkardooma Courts, Delhi in Crl. (R) No. 93/2021 whereby challenge against the order dated 04.10.2021 passed by learned MM, Karkardooma Courts, Delhi came to be dismissed.

2. Facts, as discernible from the records, are that marriage between respondent No.2 and one *Nitish Arora* was solemnised on 28.11.2017. A complaint came to be filed at the behest of respondent No.2 resulting in registration of the FIR bearing No. 225/2019 under Sections 498A/406/34 IPC at P.S. Shahdara. In the compliant, respondent No.2 had alleged that at the time of her marriage, her parents had spent around 15 lakhs and also gave jewellery and other gift items. She alleged harassment and cruelty at the hands of her in-laws. In respect of the petitioners, she alleged that



petitioner No.2 (her sister-in-law) alongwith her husband (petitioner No.1) and their children used to live with them and that they instigated her husband *Nitish Arora* to beat and harass her. It was further alleged that the petitioners had forced and pressurized her to bring more and more dowry.

Chargesheet came to be filed in the present case on 09.01.2020, whereafter charges were framed against the petitioners (as well as against other accused) vide order dated 04.10.2021 passed by learned MM. The trial court framed charge under Section 498A/34 IPC against the present petitioners.

3. The petitioners preferred a revision petition against the order framing charge before the learned ASJ. Vide the impugned order, the said revision petition came to be dismissed.

4. Learned counsel for the petitioners contends that respondent No.2 has tried to falsely implicate the petitioners in the present case and that the impugned charges framed against the petitioners could not have been framed in the facts of the present case. It is stated that only general allegations have been made against the petitioners and even if they are taken at their face value, the same do not constitute the offence under Section 498A IPC for which they have been charged.

5. Learned counsel for respondent No.2, on the other hand, has contested the present petition. He states that after due consideration of the facts of the case including the material placed before it, learned ASJ rightly upheld the charges framed by the learned MM against the petitioners (as well as others).

6. I have heard learned counsels for the parties and have also perused the material placed on record.



7. At the outset, it must be noted that against the present petitioners, charge only under Section 498A/34 has been framed. In the FIR, copy of which has been placed on record, respondent No.2 has made allegations against the petitioners that the entire family of her husband/*Nitish Arora* was under the influence and control of the petitioners. It has been alleged that the petitioners also instigated *Nitish Arora* to harass, torture and beat respondent No.2 and pressurize her to bring more dowry. It was also alleged that petitioner No.1 used to keep an evil eye on respondent No.2.

A perusal of the same clearly shows that respondent No.2 has only made general allegations against the petitioners and even so, the allegations do not prima facie meet the threshold of constituents of the offence under Section 498A IPC.

8. The said aspect is further substantiated by the observations made by learned MM in its order dated 04.10.2021 wherein it was stated that “*there are no specific allegations of dowry demand against accused persons in the complaint of the complainant*”. The said order further notes that only vague and general omnibus allegations have been made against all the accused persons (which include the petitioners herein) regarding alleged dowry demand as well as subsequent harassment.

9. However, after noting the aforesaid, learned MM came to frame charge under Sections 498A/34 IPC against the petitioners and husband of respondent No.2 stating that specific role and allegations had been levelled against them in the complaint. However, a reading of the FIR would show that even though the petitioners have been specifically named, the allegations levelled against them are not specific in nature and are general/sweeping statements. In background of the same, mere naming of



the petitioners could not have formed the basis for framing of charge against them.

10. In Shashikant Sharma v. State of Maharashtra reported as **2023 SCC OnLine SC 1599**, on the aspect of framing of charge, it has been observed that:-

“12... There cannot be any quarrel with the principles laid down in the judgments cited by the State counsel in the written submissions that at the stage of framing of charges, the Court is not required to undertake a meticulous evaluation of evidence and even grave suspicion is sufficient to frame charge. Nevertheless, there is also a long line of precedents that from the admitted evidence of the prosecution as reflected in the documents filed by the Investigating Officer in the report under Section 173 CrPC, if the necessary ingredients of an offence are not made out then the Court is not obligated to frame charge for such offence against the accused. Reference in this regard may be made to the judgment rendered by this Court in the case of Suresh @ Pappu Bhudharmal Kalani v. State of Maharashtra, (2001) 3 SCC 703 : AIR 2001 SC 1375.”

11. While it is true that at the stage of framing of charge, the Court is not required to enter into a detailed analysis of the facts and circumstances of the case in order to determine the veracity of the allegations, however, at the same time, the Court is required to ensure that the evidence prima facie shows that commission of the alleged offence can be attributed to the accused(s). However, in the present case, upon a prima facie consideration of the factual situation as noted in the orders of both Courts below as well as upon a reading of the FIR, this Court is of the considered opinion that the prosecution case lacks material allegations against the petitioners and hence, the charges framed against the petitioners are liable to quashed.

12. Resultantly, the petition is allowed and the charges framed against the



petitioners under Section 498A/34 IPC are quashed. As a necessary sequitur, order dated 04.10.2021 passed by the learned MM as well as order dated 25.02.2023 passed by the learned ASJ are set aside.

MANOJ KUMAR OHRI, J

MAY 7, 2024
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