



2024:DHC:2126



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

Date of decision: 15.03.2024

+ CRL.M.C. 2140/2022 & CRL.M.A. 9039-40/2022
JYOTI JADAUN @ RENU JADAUN AND ORS

..... Petitioners

Through: Mr.Raghav Narayan,
Ms.Pallavi Dubey, Mr.Madhav
Narayan, Advs.

versus

STATE OF NCT OF DELHI AND ANR. Respondents

Through: Mr. Shoaib Haider, APP with
SI Tilak Raj, SI Babu Lall.
Mr.Vijender Kr. Vats, Adv. for
R-2 with R-2 in person (VC).

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No. 868/2017 registered at Police Station: Ranhola, New Delhi under Sections 498A/406/34 of the Indian Penal Code, 1860 (in short, 'IPC') and the consequential trial taking place in CC 1591/2020, qua the petitioners herein.

Factual Background

2. The above FIR has been registered on the complaint made by the respondent no.2, who is the sister-in-law of the petitioner nos.1 to

3. The petitioner no.4 is the mediator, who arranged the marriage between the respondent no.2 and her husband, namely Mr.Sanket



2024:DHC:2126



Jadaun.

Submissions of the learned counsel for the petitioners:

3. The learned counsel for the petitioners submits that the marriage between the respondent no.2 and Mr.Sanket Jadaun was solemnized on 27.06.2010 at Hathras, Uttar Pradesh. As per the charge-sheet, the respondent no.2 left the matrimonial home on 26.07.2016, and filed the complaint on 02.02.2017, that is, after much delay.

4. He submits that as far as the petitioners are concerned, only the petitioner no.3, who was a minor at the time of marriage and when major portion of the allegations are attributed to her, was residing in the matrimonial home of the respondent no.2, while the petitioner nos.1 and 2 were married even prior to the marriage of the respondent no.2, and living in their own matrimonial homes. The petitioner no.4 is related to both the respondent no.2 as well as the husband of the respondent no.2, and had mediated in arranging the marriage between the two of them. He is also living separately and not in the matrimonial home of the respondent no.2.

5. He further submits that vague and omnibus allegations have been made against the petitioners, and they have been roped in the complaint as they happen to be the family members of the husband of the respondent no.2. He has taken me through the charge-sheet that has been filed in the present case, to support his submission. He places reliance on the judgment of the Supreme Court in *Abhishek v. State of Madhya Pradesh*, 2023 SCC OnLine SC 1083, to submits that on such vague allegations, the petitioners cannot be forced to face the



2024 : DHC : 2126



agony of a trial as this itself would be a negation of their rights and shall be against the interest of justice.

Submissions of the learned counsel for the respondent no. 2:

6. On the other hand, the learned counsel for the respondent no.2 submits that merely because the petitioner nos.1 and 2 were staying separately, it does not in any manner falsify the complaint of the respondent no.2. He submits that specific allegations have been made by the respondent no.2 in her complaint against each of these petitioners. He submits that similarly, merely because the petitioner no.3 was a minor, also cannot mean that she was not involved in the acts that have been attributed to her.

7. He further submits that all the averments and submissions of the learned counsel for the petitioners are a matter of trial, and this Court would, therefore, not quash the FIR and the charge-sheet against the petitioners on these grounds. He submits that the respondent no.2 is not to maintain a diary of each and every date when such incident(s) of harassment took place at her matrimonial home. He submits that, therefore, the submission of the learned counsel for the petitioners that particulars of each incident have not been given in detail, is liable to be rejected.

Analysis & Findings:

8. I have considered the submissions made by the learned counsels for the parties.

9. In *Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors.*, (2022) 6 SCC 599, the Supreme Court emphasized on the growing concern over the misuse of Section 498A of the IPC and the



2024 : DHC : 2126



increasing temptation of the complainant to implicate the relatives/family members of the husband in matrimonial disputes, by observing as under:

“10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the in-laws Appellants are in the nature of general omnibus allegations and therefore liable to be quashed?”

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17. The abovementioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498-A 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.”

10. The Court also placed reliance on the precedents on this issue in ***Rajesh Sharma & Ors. v. State of Uttar Pradesh & Anr.***, (2018) 10 SCC 472; ***K. Subba Rao v. State of Telangana***, (2018) 14 SCC 452; ***Arnesh Kumar v. State of Bihar & Anr.***, (2014) 8 SCC 273; ***Geeta Mehrotra & Anr v. State of Uttar Pradesh & Anr.***, (2012) 10 SCC 741; and, ***Preeti Gupta & Anr. v. State of Jharkhand & Anr.***, (2010) 7 SCC 667.



2024 : DHC : 2126



11. The Supreme Court held that in the absence of any specific and distinct allegations being made against the family members of the husband, and where there are only general and omnibus allegations, the FIR registered against such family members is liable to be quashed. It was further held that, in fact, in such cases, if the family members are forced to go through the tribulations of trial, it would inflict severe scars upon them, and such exercise must be discouraged.

12. In *Abhishek* (Supra), the Supreme Court reiterated that instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. The Court considered the precedents in *Neelu Chopra and Another v. Bharti*, (2009) 10 SCC 184; in *Mahmood Ali and Others v. State of Uttar Pradesh*, 2023 SCC OnLine SC 950; as also in the landmark judgment of the Supreme Court in *State of Haryana and Others v. Bhajan Lal and Others*, (1992) Supp (1) SCC 335, and held that where the allegations made are so far-fetched and improbable that no prudent person could conclude that there are sufficient grounds to proceed against the accused(s), permitting the criminal process to continue in such a situation would result in clear and patent injustice, and this would be a fit case for the High Court to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR and the consequential proceedings.

13. In the present case, the respondent no.2 married the brother of the petitioner nos.1 to 3, on 27.06.2010. She left her matrimonial home on 26.07.2016, and filed the complaint on 02.02.2017, for which



2024 : DHC : 2126



the abovementioned FIR has been registered on 24.12.2017. Mostly, vague and general allegations have been made against the petitioners herein, who are the sisters of the husband of the complainant. Petitioner no. 1 and 2 were married even before the marriage of the respondent no. 2 with their brother. They were living separately and in their own respective matrimonial homes. Petitioner no. 3 was a minor. Petitioner no.4 was merely a mediator who helped in arranging the marriage of the respondent no. 2 with Mr. Sanket Jadaun.

14. In the complaint, and consequential FIR and even in the charge sheet, primarily vague and generalised allegations have been made against the petitioners. The specific incidents that have been alleged against the petitioners, even on the reading of the complaint/FIR/charge-sheet, do not inspire confidence. While it is true that the complainant is not expected to maintain a diary of the incidents that allegedly took place, it is also not true that in the absence of any specific incidents/allegations, a complaint should be allowed to continue and the accused be forced to face a trial.

15. In *Mahmood Ali and Others* (Supra), the Supreme Court highlighted that the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not and, in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with



2024 : DHC : 2126



due care and circumspection, try to read between the lines.

16. Where the wife is set to implicate the entire family of the husband in a criminal case, it is to be expected that through her lawyer, she would get a complaint properly drafted making some specific allegations against each of the family members. If only on such averment, the family members are to face agony of the trial, it would defeat the ends of the justice. In my opinion, therefore, the Court must scrutinise the complaint/FIR to determine whether the allegations are a case of clever drafting, or it has, at least, some element of truth in the same. Though the Court is not expected to conduct a mini trial, the Court also cannot be a mere spectator and refuse to exercise the power that is vested in it under Section 482 of the Cr.P.C., where it finds that the continuation of such proceedings would defeat the ends of the justice and would amount to insurmountable harassment, agony and pain to the accused and be an abuse of the criminal process.

17. Mere filing of a charge-sheet, also cannot be a ground for the court to refuse to exercise its jurisdiction under Section 482 Cr.P.C., if the facts of the case so warrant. In *Abhishek* (supra), the Supreme Court reiterated that the High Court would continue to have the power to entertain and act upon a petition filed under Section 482 Cr.P.C. to quash the FIR even when a charge-sheet is filed by the police during the pendency of such petition. In *Mamta Shailesh Chandra v. State of Uttarakhand & Ors.*, 2024 SCC OnLine SC 136, the above view has been reiterated.

18. In view of the above, the petition is allowed and the Impugned



2024:DHC:2126



FIR, that is, FIR No. 868/2017 registered at Police Station: Ranhola, New Delhi under Sections 498A/406/34 of the IPC and the consequential trial taking place in CC 1591/2020 is hereby quashed qua the petitioners herein. Pending applications are also disposed of.

19. It is clarified that this court has considered the case only against the petitioners and any observations made in the present order shall not in any manner influence the learned Trial Court in considering the case against the remaining accused person(s) in the impugned FIR and the case emanating therefrom.

20. There shall be no orders as to costs.

NAVIN CHAWLA, J

MARCH 15, 2024/Arya/RP

Click here to check corrigendum, if any