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

+ CRL.M.C. 549/2023 & CRL.M.A. 10021/2023 (Add.document),  
CRL.M.A. 2176/2023 (Stay)

RISHIKANT & ORS.

.....Petitioners

Through: Mr. Mohan Shyam Arya, Advocate  
(through Vc).

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State.  
Mr. Abhishek Rana, Mr.  
Bhavnish Gola and Mr. Abhijeet  
Singh, Advocates for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**ORDER**

% **03.02.2025**

1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Cr.P.C. seeks the following prayers:

“a) Quash the FIR No. 06/2020 U/s 498A/406/34 IPC & 4 DP Act PS. Shahdara, Delhi and the proceedings arising out of the said FIR pending in the court of Ms. Shruti Sharma, Ld. MM, Karkardooma Court, Delhi and is fixed for 30.01.2023.

b) Pass any other or further order as this Hon'ble Court may deems fit and proper in the interest of justice.”

3. The present FIR has been registered on the complainant by respondent no. 2, on the basis of a complaint made by her initially to the CAW Cell, Shahdara, Delhi. The case of the complainant as stated in the status report



dated 02.03.2023 authored by Insp. Sanjeev Kumar Verma SHO PS Shahdara is as under:

- “1. On 8/01/2020 a case Vide FIR NO-6/2020 U/S 498A/406/34 IPC & 4 DP Act was registered at PS Shahdara on the complaint of complainant Ragini Parbha D/O Ramcharan after the counselling of CAW Cell Shahdara Delhi.
  2. The marriage was solemnized between Ragini Parbha and Rishikant on 10/05/2017 according to Hindu Customs and rites. There is no child out of said wedlock.
  3. The parents of Ragini Parbha had spent around 16 lakh rupees in this marriage and have given a lot of istridhan. But Ragini Parbha's husband and in-laws took all her istridhan.
  4. In her complaint she stated that she was tortured by (1) Rishikant (Husband) (2) Radha Krishna (Father-in-law) (3) Manormadevi (Mother-in-law) (4) Rachna (Sister-in-law) (5) Rashmi (Sister-in-law) (6) Yogender (Uncle) mentally and physically in pretext of dowry.
  5. After marriage her husband and in-laws gradually started behaving very disrespectfully towards her. Even they all started taunting her on little things and her husband used to beat her mercilessly. They all used to abuse her and used to demand 5 lakh in cash and a big car. All the istridhan as well as jewellery is in the possession of her in-laws.
  6. That during investigation notice u/s 91 CrPC was served to Ragini Parbha and reply of the same was received. Statement of Ragini Parbha and her family were recorded u/s 91 CrPC in which they supported the facts of FIR. List of istridhan was provided by Ragini Parbha which was also placed in the file. The accused persons were served notice u/s 41A CrPC following the guidelines of Hon'ble Supreme Court of India and have been bound down after interrogation.
  7. That after completion of investigation challan in the case has been prepared and submitted in court for trial in Ld. MM court.”
4. The only ground taken by learned counsel for the petitioners was that the petitioners had been already summoned by the Chief Judicial Magistrate Mainpuri, U.P., on a complaint filed by the respondent no. 2 on similar sets of allegations. It was submitted that on 01.11.2019 the learned Magistrate had



passed an order issuing summons to the petitioners under Sections 498A, 323, 354, 504, 506 of the IPC and 3/4 of the D.P. Act. It is the case of the petitioners that the allegations made in the present complaint are exactly similar to the one filed before the Court in Mainpuri and, therefore, there can't be two prosecutions on the same set of facts.

5. *Per contra*, learned counsel appearing on behalf of the respondent no. 2 had submitted that the order dated 01.11.2019 passed by the learned Chief Judicial Magistrate was challenged by the petitioners themselves in a revision petition in Sessions Court of Mainpuri *vide* Crl. Revision no. 5/2020. In the said revision petition, the learned ASJ *vide* order dated 09.03.2022 set aside the summoning order passed by the learned Magistrate with respect to the summoning of the petitioners *vis-a-vis* the offence under Section 498A IPC and observed that there were no averments made with regard to the dowry in the said complaint. Similarly, it was observed that there was no allegation with regard to the offence under Section 377 of the IPC against petitioner no. 1 (Rishikant). It is further submitted that the said order by the learned ASJ had again been challenged by the petitioners before the Hon'ble Allahabad High Court *vide* petition no. 474/2022 (Rishikant & Ors. v. State of U.P. & Anr.) and the Hon'ble High Court has been kept in abeyance the order passed by learned ASJ. It is submitted that the allegations made in the present FIR are based on different sets of facts and therefore, it is not a case of two prosecution on the same facts.

6. Heard the learned counsel for the parties and perused the records.

7. An English translation of the complaint made by the respondent no. 2 under Section 156(3) of the Cr.P.C. before the Chief Judicial Magistrate, Mainpuri; is reproduced as under : -



“Ragini Prabha, age 23 years, D/o Late Mr. Ramcharan Lal, R/o Village Mudian police station, Saurikh district, Kannauj, R/o New Basti, Vanshi Gauhra, Near pulandar ki bagiya, PS Kotwali, District Sadar, Mainpuri

1. Rishikant alias Tinku Age 25yrs S/o Radhakrishna-Husband
  2. Manorama Age 48yrs W/o Radhakrishna-Mother-in-law
  3. Radhakrishna Age 50yrs S/o Banwari Lal- Father-in-law
  4. Rachna Age 21 yrs D/o Radhakrishna-Sister-in-law
  5. Rashmi Age 19 yrs D/o Radhakrishna-Sister-in-law
- R/o house no. 356, New Banshi Gohara, PS Kotwali, District Mainpuri
6. Ramnaresh Nirala Age 35yrs S/o Banwari Lal Father-in-law
  7. Ravikant Age 35yrs S/o Ramnaresh Nirala-Brother-in-law
- R/o Village Arsara PS Kishni District Mainpuri

Application u/s 156 (3) Cr.P.C.

It is respectfully submitted that application is R/o New Basti, Vanshi Gauhra, pulandar ki bagiya, PS Kotwali, District Sadar, Mainpuri. The name of the husband of the applicant Rishikant. He is somewhat of low intelligence. The name of the father-in-law of the applicant is Radhakrishna. He is a very wrong type of person. The marriage of the applicant with Rishikant took place on 10-05-2017. Since the time of marriage, the behavior of the husband of the applicant has not been right towards her. Her husband Rishikant made an unnatural relationship with the applicant many times, due to which the applicant suffered due to which she went to her maternal home. After that, some relatives made reconciliation, due to which the applicant came to her in-laws house. Even after this, the husband of the applicant accompanied the applicant and made an unnatural relationship due to which the health of the applicant had deteriorated. When I told this to my mother-in-law, the mother-in-law started abusing the applicant herself. When the applicant's father-in-law came to know about this, the applicant's father-in-law said that your husband's mental condition is not good. Don't you worry stay with me I will take full care of you. The applicant's father-in law Radhakrishna also raped the applicant several times after finding the applicant alone, when the applicant protested, the applicant's husband, mother-in-law and father-in-law locked her in the room and threatened that if you open your mouth, they will kill you. When the applicant complained about this to the local police, the police caught the applicant's husband under the section of breach of peace and F.I.R. was not registered. After this, the



applicant gave an application by hand and an application through post to Mr. Superintendent of Police, Mainpuri, but no action was taken, then I am forced to move this application in the Honorable Court.

It is most respectfully prayed kindly direct the SHO, PS Kotwali, Mainpuri, to register the FIR and investigate the case accordingly.

Date: 27/02/2019

Applicant

Ragini Prabha, age 23 years,  
daughter of Late Mr. Ramcharan Lal,  
resident of village Mudian police  
station, Saurikh district, Kannauj,  
resident of, New Basti, Vanshi  
Gauhra, near Pulandar's garden,  
police station, police station, District  
Sadar, Mainpuri"

8. On the basis of the aforesaid complaint, the present petitioners were summoned by the learned Chief Judicial Magistrate under Sections 498A/323/354/504/506 IPC and 3 / 4 of the DP Act. In the order dated 09.03.2022 passed by the learned ASJ in the revision petition filed on behalf of the petitioners, it was observed and recorded as under:

"There is no allegation of dowry anywhere in the application submitted by the applicant and the statement made in the court. There is an allegation of unnatural sex against her husband Rishikant and rape against her father-in-law Radhakrishna. There is an allegation of threatening to kill against the husband, mother-in-law and father-in-law. The husband of the applicant i.e. Rishiakant has been charged for the act of making unnatural relations with the applicant which is punishable u/s 377. The rape of the applicant by the applicant's father-in-law Radhakrishna is punishable u/s 376 IPC. The Husband Rishikant and mother-in-law Manorama and father-in-law Radhakrishna were threatened with death is punishable u/s 506 IPC. The order of the lower court is liable to be partially set aside. The summoning order u/s 498A/323/504 IPC and 3/4 D. P. Act Rishikant and mother-in-law Manorama and against the Radhakrishna u/s 498A/323/504 IPC and 3/4 D. P. Act is not proper to be summoned for an offense under



the 3/4 DP Act. From the statement of the applicant and examination of the statements of P.W.1 and 2, there were sufficient grounds for summoning Rishikant the husband of the applicant charged u/s 377 of the IPC, father in-law Radhakrishna u/s 376 IPC and futher Rishikant, husband of the applicant, father-in-law Radhakrishna and mother-in-law Manorama was charged u/s 506.

### **Order**

Criminal Revision No. 05/2020 is accepted and the order passed by the Lower Court is partially set aside.

Therefore, the Lower Court may pass appropriate orders on the basis of the findings made in the aforesaid judgement. The file of the lower court should be sent without delay and the parties in the matter appeared before the lower court on the fixed date.”

9. This Court has also gone through the contents of the FIR which has been registered at PS Shahdara, Delhi. A perusal of the contents of the FIR reflects that the specific allegations of dowry demand have been made, as has been pointed out in the status report filed by the Investigating Officer. Chargesheet on the basis of the aforesaid FIR also stands filed which is pending before the Court of competent jurisdiction. In view of the above, the contention on behalf of the petitioner that the allegation made in the present FIR are based on the same set of facts as that of the previous complaint is incorrect; as a reading of both the complaints i.e., the one filed before the Chief Judicial Magistrate, Mainpuri, U.P. as well as the present FIR shows that the contents are completely different. The gist of the complaint made by the respondent no. 2 before the Chief Judicial Magistrate, Mainpuri was with regard to the sexual assault made by the petitioner no. 2 (Radha Krishna), however, in the present FIR no such allegation has been made.

10. In view of the above, the present petition is dismissed and disposed of.



11. Pending application(s), if any, also stands disposed of.
12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present petition.
13. Order be communicated to the learned Trial Court for necessary information and compliance.
14. Order be uploaded on the website of this Court *forthwith*.

**AMIT SHARMA, J**

**FEBRUARY 3, 2025/kr/Pc**

*Click here to check corrigendum, if any*