

(1996) 07 P&H CK 0023

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 57 of 1996

Ajit Singh and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: July 31, 1996

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 161, 227, 239, 245, 401
- Penal Code, 1860 (IPC) - Section 498A

Citation: (1997) CriLJ 659 : (1997) 1 RCR(Criminal) 590

Hon'ble Judges: P.K. Jain, J

Bench: Single Bench

Advocate: Ramesh Hooda and S.S. Dalai, for the Appellant; Govind Dhanda, Assistant A.G., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P.K. Jain, J.

This petition has been filed u/s 401 of the Code of Criminal Procedure (hereinafter referred to as "the Code") against the order dated 11-12-1994, passed by the Additional Sessions Judge, Rohtak, whereby the order dated 31 -3-1995, passed by the Judicial Magistrate, Rohtak, discharging the petitioners and two others in the Criminal Case No. 337/1 of 1994, arising out of FIR No. 216 dated 29-9-1994, registered at Police Station Sampla for an offence u/s 498-A, Indian Penal Code, has been partly set aside and the petitioners have been ordered to be charged for an offence u/s 498-A, Indian Penal Code, and to be proceeded against in accordance with law.

2. The facts necessary for the disposal of this petition are that one written complaint dated 17-9-1994 made by Sh. Kartar Singh, a retired Police Official, the aforesaid FIR was registered at Police Station Sampla. The allegations, in brief, are that Sunita,

daughter of the complainant; was married with Ajit Singh, petitioner No. 1, in the year 1988. Petitioner No. 2 is the father and petitioner No. 3 is the mother of petitioner No. 1. It has been alleged in the complaint that the complainant had given sufficient dowry according to the status but the petitioners along with Baljit Singh and his wife were not satisfied and were harassing Sunita for bringing insufficient dowry. A demand was made for a refrigerator, colour television, cooler etc. The complainant, who was in the service of Haryana Police, had to seek compulsory retirement due to a paralytic attack. His son was taken into service on compassionate grounds. This further annoyed the petitioners, who wanted that petitioner No. 1 ought to have been got employed on compassionate ground. The complainant convened a Panchayat also wherein the petitioner described Sunita as mentally disabled and insane. Later on Sunita was given beating and turned out of the matrimonial house. After investigating the case, a charge-sheet was filed in the Court against the petitioners as well as Baljit Singh, a brother of petitioner No. 1, and Jagwanti, wife of Baljit Singh. After hearing the prosecution and the defence, the Judicial Magistrate, by his order dated 31-3-1995, came to the conclusion that the allegations of the complainant are general in nature and no case u/s 498-A, I.P.C., is made out. Accordingly, all the five accused were discharged.

3. Feeling aggrieved, the State filed revision petition before the Additional Sessions Judge, Rohtak. By the impugned judgment, the Additional Sessions Judge, Rohtak, came to the conclusion that a prima facie case to frame charge was made out against the petitioners. Consequently, order dated 31-3-1995, passed by the Judicial Magistrate was set aside in part and the petitioners were ordered to be charged u/s 498-A, Indian Penal Code. However, the impugned order was confirmed qua the remaining two accused Baljeet Singh and his wife Jagwanti. The later parts of the said order is not under challenge.

4. I have heard the learned counsel for the parties and have perused the record.

5. Shri Ramesh Hooda, Advocate, learned counsel for the petitioners, has argued that the allegations in the first information report against the petitioners are quite vague and indefinite and necessary particulars of the alleged acts of cruelty and harassment have not been given and as such the petitioners and the two other accused were rightly discharged by the Judicial Magistrate while placing reliance upon the judgments of this Court detailed in para 5 of the order.

6. On the other hand Shri Govind Dhanda, A. A. G., Haryana, has argued that at this stage of framing a charge, the trial Magistrate is not to examine meticulously the allegations and the evidence in support thereof, but is required to see if on the basis of the allegations and the material there is a ground to presume that the accused persons have committed an offence. If the answer to this question is in the affirmative, the Magistrate is bound to frame a charge. Learned Assistant A. G., has pointed out that by the impugned judgment, the Additional Sessions Judge, after considering the record, has rightly come to the conclusion that there is sufficient

evidence on the record to presume that the petitioners have committed an offence u/s 498-A, Indian Penal Code and as such the impugned order is legally sustainable.

7. The apex Court has considered the above question in several decisions i.e. [State of Bihar Vs. Ramesh Singh](#), ; [Union of India \(UOI\) Vs. Prafulla Kumar Samal and Another](#), ; [Supdt. and Remembrancer of Legal Affairs, West Bengal Vs. Anil Kumar Bhunja and Others](#), ; and [Niranjan Singh Karam Singh Punjabi and Others Vs. Jitendra Bhimraj Bijja and others](#), . What emerges from a reading of these decisions is that at the stage of framing charge, if there is a strong evidence which leads the Court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the Court to see that there is no sufficient ground for proceedings against the accused. The accused cannot be discharged if from the first information report or complaint and the statements of the witnesses recorded u/s 161 of the Code and from all other material a prima facie case is made out against the accused. At the initial stage the truth, veracity and effect of the evidence which the prosecution proposes to adduce are not to be meticulously judged and the standard of test, proof and judgment which is to be applied finally before finding the accused guilty or otherwise is not exactly to be applied at the stage of framing a charge. What the Court has to consider at this stage is only the sufficiency of the ground for proceedings against the accused and not whether materials on record are sufficient or adequate for conviction.

8. It may be clarified that in [R.S. Nayak Vs. A.R. Antulay and Another](#), the Supreme Court while examining Sections 227, 239, and 245 of the Code relating to discharge in a trial (1) before a Court of Sessions, (2) of warrant cases, and (3) of summons cases, observed that in spite of difference in the language of the three sections, the legal position is that if the trial Court is satisfied that "prima facie case is made out, the charge has to be framed.

9. If the first information report, the statements recorded u/s 161 of the Code, and the other material collected during investigation are judged at the touch-stone of the above principles, the necessary conclusion is that there is a ground to presume that the petitioners have committed an offence u/s 498-A, Indian Penal Code. At this stage, the prosecution case cannot be thrown out merely by observing that the averments or the allegations in the complaint/first information report are vague and indefinite inasmuch as the necessary particulars regarding the year, month, date or time have not been mentioned. From a bare reading of the FIR it is evident that there are clear accusations of causing harassment and cruel treatment to the daughter of the complainant on account of insufficient dowry as well as not meeting the further demand stated to have been made by the petitioners regarding refrigerator, cooler and colour television etc. The approach and finding of the Additional Sessions Judge in his impugned judgment are based on just and cogent reasons with which I am in full agreement.

10. For the reasons mentioned above, I do not, find any merit in the present petition and the same is hereby dismissed.