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Mukesh Rani Vs State of Haryana

Criminal Miscellaneous No. 22058 of 1998

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 13, 2001

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) â€" Section 482#Penal Code, 1860 (IPC) â€" Section 34, 406

Citation: (2001) 2 CriminalCC 123 : (2002) 1 RCR(Criminal) 163

Hon'ble Judges: Nirmal Singh, J

Bench: Single Bench

Advocate: Ramesh Hooda, for the Appellant; G.P.S. Nagra, AAG, Haryana, for the Respondent

Final Decision: Dismissed

Judgement

Nirmal Singh, J.
This is a petition u/s 482 Cr.P.C. for quashing the impugned order Annexure P-1 vide which respondents 2 and 3 were

discharged by the Sub-Divisional Judicial Magistrate, Gohana vide order dated 24.4.1996 Annexure P-2 vide which the revision petition filed by

the State has been dismissed by the learned Additional Sessions Judge, Sonepat.

2. The facts of the case are that on the complaint of Mukesh Rani a case under Sections 406, 498-A, 323, 506, 34 IPC was registered against

Sukhdev, Krishan, Bharto, Kalawanti and Ram Niwas, on the allegations that they have been harassing the complainant for bringing Refrigerator,

Scooter and cash amounting to Rs.50,000 for the purchase of land. After the completion of the investigation, a report u/s 173 Cr.P.c. was

presented before the Illaqa Magistrate. The learned Judicial Magistrate, after perusing the evidence on record discharged Ram Niwas and

Kalawanti whereas other accused were charge sheeted under Sections 498-A, 406, 323, 506, 34 IPC. Aggrieved by the order of discharge, the

State preferred a revision which came up for hearing before the Additional Sessions Judge, Sonepat who vide order dated 26.3.1998 dismissed

the revision petition. Aggrieved by the orders of Courts below the present petition has been preferred.

3. I have heard Shri Ramesh Hooda, Learned Counsel for the petitioner and perused the record.

4. Shri Hooda, Learned Counsel for the petitioner submitted that the impugned orders are palpably erroneous. He submitted that at the time of

framing the charge, the Courts are not to see whether the accused is to be convicted or to be acquitted. He submitted that at the time of framing

the charge, only a prima facie case is to be seen. If from the evidence on record, a prima facie case is made out, then a charge is to be framed. He

submitted that from the evidence on record, it has transpired that there is a prima facie case against respondents 2 and 3. He submitted that the

petitioner was harassed by the respondents No.2 and 3 alongwith their co-accused on account of demand of dowry. They were demanding

scooter and refrigerator. He further submitted that the dowry articles have been recovered from the house of respondent No.2. He submitted that

these facts have been overlooked by the learned trial Court.

5. After hearing the Learned Counsel of the parties, I am of the considered opinion that there is no illegality or irregularity in the impugned order.

There is no dispute regarding proposition of law putforth by the Learned Counsel for the petitioner that at the time of framing the charge, the trial

court is not to go into the merits of the case and only a prima facie case is to be seen. At the stage, it is not to be seen whether the accused is to be

convicted or to be acquitted.

At the same time, if the allegations are vague and from the complaint itself, it shows that the accused has been falsely implicated then the charge is

not to be framed. If the charge is framed it will tantamount to abuse of the process of the Court. Reliance can be placed upon Satyabir Singh and

others v. State of Haryana and another, 1993(2) CLR 249, Parveen Kumari v. State of Punjab and others, 1994(1) CLR 53, Madhu Bala

Mahajan v. Sunayana Mahajan, 1991(2) CLR 227.

6. In the instant case respondent No.2 is the husband of respondent No.3 and respondent No.3 is the sister of husband of the complaint. In FIR, it

has not been specifically mentioned what dowry articles were entrusted to respondents 2 and 3 at the time of marriage. If no article has been

entrusted to respondents 2 and 3, then no case u/s 406 is made out. It is also not the case of the complainant that respondents 2 and 3 are residing

with the husband of the complainant. The respondent have placed on record the document showing that they are employed as teachers and are

living separately in village Bambla from the complainant and her husband Satyadev. Even on the date when the alleged occurrence took place

respondents were present in their school i.e. on 7.1.1994.

7. The provisions of Sections 498-A, 304-B IPC and 113-A and 113-B in the Evidence Act were added by the legislature, in its wisdom, for the

protection of women but these provisions are being mis-used day in and day out. Whenever there is a matrimonial dispute between husband and

wife, for the fault of the husband, other relations of the husband i.e. brothers, sisters and parents, are also roped in the litigation on the allegation of

demand of dowry, whether they are living joint or separate. Sometimes, the parents who are aged about 80 to 90 years and unable to walk or talk

and the sisters living at far off places in the matrimonial house are also involved. In such like situation, the courts while framing charge should be

very cautious. Charge should be framed when there is cogent and convincing evidence. If on the face of the complaint it shows that complaint is

false, charge should not be framed. In the instance case, there is evidence that respondent No.3 who is the sister of the husband of the complainant

was living separate with her husband-respondent No.2 in a different village and were employed as teacher. Therefore, the learned trial Court has

rightly discharged respondents 2 and 3 by observing as under :-

I am of the considered opinion that the prosecution has failed to bring a prima facie case against these two accused persons particularly when

there is no statement of any eye witness of the public of village Jasrana u/s 161 Cr.P.C. to support the contention of the complainant, about the

presence in the village Jasrana, while they are serving as teacher in Distt. Bhiwani, prior to the marriage of the complainant with accused Satyadev,

as stated by them, at the bar, so the authorities of law quoted by Id. APP as AIR 1986 AP 2046, 1989(2) CLR 430, (sic Supdt. and

Remembrancer of Legal Affairs, West Bengal Vs. Anil Kumar Bhunja and Others, are not applicable to the facts of the present case with regards

to the aforesaid two accused persons for which, relying upon the authorities of law quoted by Id. defendant counsel referred to above, both the

said person namely Ram Niwas and Kalawati are hereby discharged.

For the reasons mentioned above, there is no ground to interfere in the well reasoned orders passed by the learned Courts below. Hence this

petition is dismissed.