

(2005) 08 AHC CK 0204

Allahabad High Court

Case No: Criminal Miscellaneous Application No. 14544 of 2004

Smt. Maya Sharma

APPELLANT

Vs

State of U.P. and Smt. Som Lata

RESPONDENT

Date of Decision: Aug. 10, 2005

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Dowry Prohibition Act, 1961 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 498A

Citation: (2005) 2 DMC 859

Hon'ble Judges: R.C. Deepak, J

Bench: Single Bench

Advocate: Viresh Misra and Amit Misra, for the Appellant; R.D. Singh and A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

R.C. Deepak, J.

The present petition u/s 482 Cr.P.C. has been filed by Smt. Maya Sharma for quashing the entire proceedings in case no. 1058 of 2004 u/s 498A IPC and Section 3/4 Dowry Prohibition Act arising out of case crime no. 49 of 2004 pending the in the Court of Special Judicial Magistrate, Agra.

2. The petitioner - Smt. Maya Sharma has filed the copies of the F.I.R., statements of the witnesses, charge-sheet, site plan, certain applications, medical certificates of co-accused Arun Kumar Sharma and certain other documents in support of her petition. On the other hand, the opposite party/informer - Smt. Som Lata Sharma has filed counter affidavit. Thereafter, the petitioner filed rejoinder affidavit.

3. The brief facts of the case emerging from the record are that the marriage of Smt. Som Lata Sharma was solemnised with Arun Kumar Sharma (the co-accused) on

20.4.2003 according to Hindu rites and rituals. A sum of rupees six lacs is alleged to have been spent on the marriage ceremony and yet her In-laws were allegedly not satisfied with the amount of dowry. Consequently, they started harassing and torturing her. Ultimately, they ousted her from their house/home. Thereafter, she lodged the first information report. After investigation, the investigating officer submitted the charge-sheet.

4. Heard Sri Viresh Misra, learned senior counsel for the petitioner -Smt. Maya Sharma, Sri R.D. Singh, learned counsel for the opposite party - Smt. Somlata Sharma, learned AGA for the State and perused the record.

5. Ordinarily speaking, it requires two to make a quarrel. Legally speaking, it requires to find out, ascertain and determine who of the two and what for was/is initiator/aggressor in the course of the quarrel.

6. The petitioner - Smt. Maya Sharma is the mother-in-law of the opposite party - Smt. Somlata Sharma, who was married to the petitioner's son - Arun Kumar Sharma on 20.4.2003. The petitioner's allegations inter alia are that the opposite party - Smt. Somlata Sharma is bent upon living separately along with her husband - Arun Kumar Sharma upon getting their properties of the family of the petitioner's partitioned and ultimately upon breeding strife in the family and creating all sorts of mental and physical restlessness among all the members of the family since she came over petitioner's house/home. The opposite party - Smt. Somlata Sharma, on the other hand alleged inter alia that the petitioner -Smt. Maya Sharma and other family members including her husband started demanding dowry immediately after her marriage and frequently harassed and tortured her in various ways.

7. All the material allegations including the above ones emerging from the affidavit, counter affidavit and rejoinder affidavit filed by the petitioner and the opposite party respectively in support of their respective allegations relate to factual aspects of the case which can be determined and decided by the trial court in one way or the other on the basis of the admissible and legal evidence which is expected to be adduced therein and not by this Hon"ble Court and that too in the petition preferred u/s 482 Cr.P.C., the scope of which is limited as is crystal clear from the Section itself, which reads as under:

482. Saving of inherent powers of High Court. - Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

8. The contention of the learned counsel for the petitioner to the contrary is not tenable, therefore, the petition has no substance and is dismissed. The stay order dated 17.12.2004 stands vacated.

9. Since the family has been passing allegedly through trials and tribulations, tumults, turmoils, the trial court is directed to decide as expeditiously as legally possible the Criminal Case No. 1058 of 2004 State v. Arun Kumar Sharma and Ors. to which this petition relates.