

(2014) 05 AHC CK 0032**Allahabad High Court****Case No:** Criminal Misc. Application No. 4085 of 2003

Dharam Pal

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: May 13, 2014**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 200, 202, 482
- Penal Code, 1860 (IPC) - Section 323, 498-A, 504

Citation: (2014) 3 ACR 2875 : (2014) 86 ALLCC 205**Hon'ble Judges:** Vinod Prasad, J**Bench:** Single Bench**Advocate:** K.K. Dwivedi and R.P. Dwivedi, Advocate for the Appellant; Anoop Singh, Advocate for the Respondent**Final Decision:** Allowed**Judgement**

Vinod Prasad, J.

This 482 Cr.P.C. Application has been filed by four applicants, namely, Pitambar Lal and his three sons Dharam Pal, Prahlad, Bal Chandra. Prahlad was married with Smt. Usha Devi respondent No. 2 according to Hindu customs and rites, in which dowry was given according to the economic condition of the father Nandi Lal. Because of insufficient dowry, respondent No. 2 Smt. Usha Devi was tortured by the husband and in-laws at her in-laws house, who demanded Rs. 50,000/-, buffaloes and immovable property. Victim even was assaulted with shoes, boxed and slapped. Accused have snatched away the dowry articles and victim was thrown out of the house.

2. With above allegations, the victim has lodged the complaint against the accused applicant. Copy of the complaint is annexure No. 1. In her statement u/s 200 Cr.P.C., victim has clearly supported her version. The witnesses u/s 202 Cr.P.C. Mohd.

Ahmad and Uday Bhan Singh have also supported the case of the victim. Vide summoning order dated 23.11.2002, learned Magistrate in the aforesaid complaint case No. 718 of 2001, Smt. Usha Devi v. Prahlad and others, has summoned the applicants to stand the trial for offence under sections 498-A, 323, 504 IPC fixing 4.1.2004 for appearance of the applicants. Subsequently, it transpires that due to non appearance against two of the applicants Prahlad and Dharam Pal non bailable warrants were issued on 2.4.2003.

3. I have heard Sri K.K. Dwivedi, learned Counsel in support of this 482 Cr.P.C. Applications and Sri Sangam Lal Keshewani, learned AGA for the State.

4. After perusing the material on record, it becomes evident that so far as husband Prahlad and father in-law Pitamber Lal are concerned, there are specific allegations against them. This 482 Cr.P.C. Application in their respect sans merits and, therefore is dismissed. Interim order against them stands vacated. These two applicants are directed to surrender within a period of three weeks" before the Magistrate concerned, who is directed to proceed with their trial expeditiously in accordance with law.

5. However, coming to the case of other two applicants Dharam Pal and Bal Chandra, who are stated to be jeth and dewar of the victim, there is no specific allegations against them.

6. Sri K.K. Dwivedi, learned Counsel inviting attention of the Court to paragraph 14 submitted that applicant No. 1 Dharam Pal was a Government Employee working in Indian Air Force and was posted at Tambaran, Air Force Station in Chennai, as Wing Commander and Chief Administration Officer. He is residing in Chennai along with his family. He never demanded any dowry and had nothing to do with any of the offence. It is submitted that his name has been inserted in complaint only for the purpose of harassment. Sri Dwivedi, learned Counsel further urged that so far as applicant No. 3 Bal Chandra is concerned, he was a farmer and he also never demanded any dowry.

7. From the perusal of the statements, no specific allegation is stated against the jeth and dewar. Their case is distinguishable from the case of the husband and father-in-law. This 482 Cr.P.C. Application for Dharam Pal (jeth) and Bal Chandra (dewar) therefore stands allowed, as their prosecution seems to be mala fide, tainted with vindictiveness to seek revenge. Their case falls squarely in the eighth and ninth categories of the decision of the Apex Court in State of Haryana and others Vs. Ch. Bhajan Lal and others, It is not uncommon in Indian Society to frame in innocent persons specially family members to seek vendetta in family disputes.

8. In view of aforesaid, prosecution of the two applicants Nos. 1 and 3, Dharam Pal and Bal Chandra through the aforesaid case No. 718 of 2001, under sections 498-A, 323, 504 IPC is hereby quashed. This 482 Cr.P.C. Application is allowed in part as above.

In the event, two applicants father-in-law Pitamber Lal and the husband Prahlad surrender, as directed above, their bail prayer is directed to be considered expeditiously, if possible, on the same day by the Courts below.