

(2006) 07 DEL CK 0036

Delhi High Court

Case No: Criminal M.C. No. 3886 of 2006 and Criminal M. No. 6501 of 2006

Baldev Singh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision: July 24, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 406, 498A

Citation: (2006) CriminalCC 93 : (2006) 4 RCR(Criminal) 855

Hon'ble Judges: A.K. Sikri, J

Bench: Single Bench

Advocate: B.K. Sharma, for the Appellant; M.N. Dudeja, for the Respondent

Judgement

A.K. Sikri, J.

Complainant, Smt. Jaswinder Kaur, had filed a complaint before the Crimes Against Women (CAW) Cell, Krishna Nagar and Nanak Pura, Delhi. Petitioner was called by the CAW Cell and proceedings were held by the said Cell. It is the case of the petitioner that he had filed various documents mentioned in the applications dated 17.4.2003 and 26.5.2005 before the CAW Cells at Krishna Nagar and Nanak Pura. Since the Cells could not reconcile the parties, ultimately FIR was registered and after investigation the charge-sheet has been filed before the learned MM. The case is at the stage of framing of the charge. The petitioner herein moved an application before the learned MM requesting the court to summon the record of the CAW Cells at Krishna Nagar and Nanak Pura, before the arguments on charge are heard. Vide order dated 30.5.2005 this request of the petitioner was rejected by the learned MM. Petitioner filed revision petition there against, which has also been dismissed by the learned ASJ vide order dated 10.5.2006. Perusal of the order of the learned ASJ would show that relying upon the judgment of the Supreme Court in State of Orissa v. Debendra Nath Padhi, 2005(1) CCC 312 (S.C.) : (2005) 1JCC 109 the learned ASJ was of the opinion that at this stage accused cannot rely upon the documents submitted by him. Therefore, while rejecting the revision petition, the learned ASJ has further

given direction that the record before the CAW Cells would be preserved and would not be destroyed to avoid any prejudice to the accused persons.

2. Submission of learned counsel for the petitioner is that the judgment of the Supreme Court in Debendra Nath Padhi's case (supra) has been, misread by the court below. His submission is that the status of the CAW Cell, which is headed by the Police Officers, is also that of an investigating agency. May be, having regard to the fact that the dispute in question is of matrimonial nature, an attempt is made in the first instance to reconcile the parties. Nevertheless, some investigation into the complaint filed by the complainant is gone into by the CAW Cells at that stage also and, therefore, this would form part of the charge-sheet, which is ultimately filed by the Police and in these circumstances the request of the petitioner for summoning of this record was not unjustified.

3. Mr. Dudeja, learned APP for the State, on the other hand, submits that indubitably the CAW Cell is created to make an attempt for reconciliation/settlement between the parties and, therefore, many times documents are filed by both the parties with this aim in mind and if ultimately settlement does not take place, reliance on such documents cannot be placed by either party. His submission is that the proceedings before the CAW Cell essentially being in the nature of mediation/reconciliation in the event of failure of mediation/reconciliation, what transpires in such proceedings cannot be relied upon.

4. As noted above, the CAW Cell is the amalgam of investigating agency which is also entrusted with the function of attempting to reconcile the parties. The proceedings before the CAW Cell are initiated pursuant to the complaint filed by the complainant in which there may be allegations of harassment on account of demand of dowry, etc., on the basis of which complaint generally is u/s 498-A/406 IPC. I am, therefore, of the opinion that there is no harm in summoning the record of the CAW Cells at Krishna Nagar and Nanak Pura. At the same time, while hearing arguments on the charge, the learned trial court should be prudent enough to see as to which documents contained in the record before the CAW Cells are to be considered and parties allowed to rely thereupon.

5. It is accordingly directed that the trial court shall summon the records in this case before the CAW Cells at Krishna Nagar and Nanak Pura, Delhi and, therefore, hear the parties on the charge.

6. With these observations, petition and the application stand disposed of.