(2001) 12 DEL CK 0083

Delhi High Court

Case No: Criminal M. (M) No. 3090 of 2001

Majhar @ Papoo and Others		APPELLANT
	Vs	
State		RESPONDENT

Date of Decision: Dec. 4, 2001

Acts Referred:

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

Citation: (2002) 3 Crimes 90 : (2002) 96 DLT 566 : (2002) 1 DMC 510 : (2002) 1 JCC 515

Hon'ble Judges: Kripa Shankar Gupta, J

Bench: Single Bench

Advocate: P.K. Nayyar, for the Appellant; M.N. Dudeja, for the Respondent

Final Decision: Allowed

Judgement

K.S. Gupta, J.

In this petition u/s 482, Cr. P.C. the petitioners seek quashment of FIR No. 15/2001 u/s 498-A, IPC, PS Bara Hindu Rao as also setting aside of the order directing issuance of summons to them to face trial in the proceedings emanating from the said FIR.

2. Copy of FIR No. 15/2001 registered on 17th January, 2001 on the complaint of Smt. Guleshadabad made to in charge, Crime Against Women Cell, North District, is placed at page 24 to 26 whereas copy of complaint on the basis whereof FIR came to be registered is at pages 31 to 37 on the file. Indisputable, petitioners are the brothers-in-law (Devars) of Smt. Guleshadabad, complainant. It is also not in dispute that said FIR does not contain any allegation Constituting the offence u/s 498-A, IPC against the petitioner. It was contended by Mr. M.N. Dudeja for State that criminal liability for the offence u/s 498-A, IPC is sought to be fastened against the petitioners on the basis of second supplementary statement of the complainant. It is

alleged in this supplementary statement that the complainant''s husband, mother-in-law, brother-in-law-Munna, Majhar@Papoo, Mohsin@Guddu and Fazal-ur-Rehman as also sister-in-law used to ask her for bring in money from her parents and when she declined to do so, all of them beat and hurl filthy abuses to her. In my view, this statement could be considered when some allegations was made in the FIR/complaint against the petitioner and not otherwise. Categories of cases wherein power u/s 482, Cr.P.C. can be exercised either to prevent abuse of process of Court or otherwise to secure the ends of justice, have been summarised in para No. 108 on Page 629 of the decision in State of Haryana and others Vs. Ch. Bhajan Lal and others, , and categories 1 and 3 which are material, are reproduced below:

"(1) Where the allegation made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirely do not prima facie constitute any offence or make out a case against the accused.

(2) .....

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused."

3. Obviously, present case is covered by the said categories and proceedings emanating from said FIR No. 15/2001 and summoning order qua the petitioners, thus, deserve to be quashed/set aside.

4. Consequently, while allowing the petition, aforesaid FIR No. 15/2001 u/s 498-A, IPC Bara Hindu Rao and proceedings emanating there from including summoning order qua the petitioner are quashed/set aside.