

श्री प्रीति राजें
FETI RA
दण्डादि
Magister
महाराष्ट्र-02 (उप
राज्यीय कोर्ट, दिल्ली

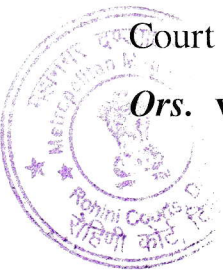
14.02.2025

Present: Sh. Rajveer, Ld. APP for the State.

Sh. Abhishek Sharma, Ld. Proxy Counsel for the accused through
VC.

Matter is listed for orders on charge today. Arguments on the point of charge heard on the previous date. Written submissions have also been filed on behalf of the accused persons. During the course of arguments on the point of charge, learned counsel has argued that the offences for which the accused persons have been charge-sheeted are not made out since the ingredients therein are not fulfilled and the present complaint has been filed only to harass and extort the accused. In this it is further submitted that the complaint of the complainant only discloses taunting which does not amount to cruelty in terms of Section 498A IPC. It has been further submitted that the complainant was unhappy with the fact that the sister-in-law used to interfere in their life and in this respect also, there have been general and petty allegations. In view of the same, it has been prayed that the accused persons be discharged in the present case.

Reliance has been placed on judgment passed by the Hon'ble High Court of Bombay at Aurangabad, in case titled *Narendra Sahebrao Patil & Ors. vs. The State of Maharashtra* (Criminal Appeal No. 36 of 2002,



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Mahila Court-02, North-West
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pronounced on 23.01.2024), judgment passed by the Hon'ble Supreme Court in case titled *Manju Ram Kalita vs. State of Assam* (2009) 13 SCC 330; judgment passed by the Hon'ble High Court of Delhi in case titled *Neera Singh vs. The State (Govt. of NCT of Delhi)* (Crl. M.C. 7262/2006, pronounced on 23.02.2007) and judgment passed by the Hon'ble High Court of Madhya Pradesh in case titled *Alka Sharma vs. The State of M.P.* (Misc. Criminal Case No. 30092 of 2022)

Ld. APP for the State prayed to frame charge against the accused persons as there are specific allegations against them.

This Court has heard arguments on behalf of accused persons as well as Ld. APP for the State and perused the record, judgments and the written submissions filed on behalf of the accused, carefully.

In the case titled as *Savitri Devi vs. Ramesh Chand & Ors. (2003 Crim.L.J 2759)*", the Hon'ble High Court of Delhi observed that "the word 'harassment' in ordinary sense means to torment a person subjecting him or her through constant interference or intimidation. If such tormentation is done with a view to 'coerce' any person and in this case, the wife to do any unlawful act and in this case to meet the unlawful demand of property or valuable security, it amounts to 'harassment' as contemplated by Section 498-A [IPC].

'Coercion' means persuading or compelling a person to do something by using force or threats." It was further observed that "neither every cruelty nor every harassment has element of criminal culpability for the purposes of Section 498-A [IPC]... In constituting 'cruelty' contemplated by Section 498-A IPC, the acts or conduct should be either such that may cause danger to life, limb or

health or cause 'grave' injury or of such a degree that may drive a woman to commit suicide. Not only that such acts or conduct should be 'wilful' i.e. intentionally." It was further observed that "the only test is that acts or conduct of guilty party should have the sting or effect of causing grave injury to the woman or are likely to cause danger to life, limb or physical or mental health. Further, conduct that is likely to drive the woman to commit suicide is of much graver nature than that causing grave injury or endangering life, limb or physical or mental health. It involves series of systematic, persistent and wilful acts perpetrated with a view to make the life of the woman so burdensome or insupportable that she may be driven to commit suicide because of having been fed up with marital life."

Further, in **Manju Ram Kalita vs. State of Assam (2009) 1 3SCC 330,**

it has been observed by the Hon'ble Supreme Court that:

"It is to be established that the woman has been subjected to cruelty continuously/persistently or atleast in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as cruelty to attract the provisions of Section 498A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty."



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Further, in case titled **Kahkashan Kausar @ Sonam & Ors. vs. State of Bihar, Criminal Appeal No. 195/2022 (pronounced on 08.02.2022)**, it has been observed by the Hon'ble Supreme Court that:

“18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

From perusal of the entire charge sheet, it transpires that the complainant has levelled only basic vague allegations against accused persons qua Section 498A IPC, no specific role has been attributed to them nor are there any specific allegations against with respect to the demand of dowry being made to the complainant nor has she leveled any specific allegation as to how she was harassed for or in connection with any dowry demand. There are allegations that the accused no. 2 used to instigate accused no. 1 and interfere in the life of the accused no. 1 and the complainant and that accused no. 2 did not want that marriage between the complainant and accused no. 1 should work out. It is settled law that mere instigation or mere taunting does not come

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within the purview of Section 498-A IPC. Mere demand also does not amount to an offence u/s 498-A IPC but it should be coupled with harassment and there should be proximity between harassment and demand which is lacking from the bare reading of the complaint. Thus, finding no allegations against accused persons sufficient to fulfil the ingredients of offence under Section 498A IPC, accused [REDACTED] are discharged for offence under Section 498A/34 IPC.

Coming to the offence of criminal misappropriation under Section 406 IPC, it was held by the Hon'ble High Court of Delhi in Ms. Anu Gill vs. State and another 2001 V AD (Delhi) 411:

“To constitute the offence under section 406 IPC there must be clear and specific allegation that the accused was entrusted with some property or domain over it by the complainant, that the accused has dishonestly misappropriated or converted the same to his own use or that accused refused to return back the articles when the same were demanded by the complainant”.

From the perusal of entire charge sheet, it transpires that complainant has not levelled any specific allegations of entrustment of any of her stridhan articles to any of the accused persons or how the same have been misappropriated by the accused persons. The complainant has neither placed on record any photographs of the said stridhan articles nor the bills/invoices of the said stridhan articles, despite service of notice u/S 91 CrPC upon her by the



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IO in this regard. Therefore, **there being no prima facie material on record, both the [REDACTED] for the offence u/s 406/34 IPC.**

Bail Bonds furnished on behalf of the accused persons earlier are accepted as bail bonds under Section 437A CrPC and the same continue to remain in operation for the next 6 months.

File be consigned to record room after due compliance.

Copy of this order be given dasti.



(Preeti Rajoria)
JMFC/ Mahila Court 2
North West District / Rohini, Delhi
14.02.2025

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