2023 INSC 1050

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 494/2023

MAHALAKSHMI & ORS. ..... APPELLANTS

VERSUS

THE STATE OF KARNATAKA & ANR. ..... RESPONDENTS

O R D E R

Heard the learned counsel for the parties.

Appellant no. 1 - Mahalakshmi is the sister of accused no. 1 - Sarvan Kumar, former husband of informant/respondent no. 2 – Rekha Bhaskaran. Appellant Nos. 2 and 3, namely, Maharani T.S. and Ranjanavadhan, respectively, are cousins of accused no. 1 – Sarvan Kumar. Appellant no. 4 – Archana is the wife of appellant no. 3 – Ranjanavadhan.

Accused no. 1 – Sarvan Kumar and the informant/respondent no. 2 - Rekha Bhaskaran got married on 29.06.2015. Rekha Bhaskaran made a written complaint, pursuant to which First Information Report[1] No. 92 of 2016 dated 26.11.2016, was registered at Police Station – Halasurgate Women, District – Bangalore City, Karnataka for the offence punishable under Sections 498A and 506 of the Indian Penal Code, 1860[2] and Sections 3 and 4 of the Dowry Prohibition Act, 1961. After investigation, a charge sheet dated 20.07.2017 was filed.

1 **For short "FIR"**
2 **For short "IPC"**

Thereupon, the appellants, along with accused no. 1 – Sarvan Kumar, his father, accused no. 2 – Surendra Prasad, and his mother, accused no. 3 – Malathi were summoned to appear before the trial court.

The appellants had filed a petition under Section 482 of the Code of Criminal Procedure Code, 1973[3] to quash the charge sheet dated 20.07.2017. The said petition was dismissed by the impugned judgment dated 21.03.2019.

It is an accepted position that appellant no. 1 – Mahalakshmi, sister of accused no.1 - Sarvan Kumar, got married on 02.05.2013. After marriage, she has been residing in Canada.

We have perused the complaint, as well as the charge sheet. In the complaint, the informant/respondent no. 2 – Rekha Bhaskaran had alleged that in February 2016, appellant no.1 - Mahalakshmi commented on her physical appearance and on 20.09.2016, Mahalakshmi had thrown the personal belongings of Rekha Bhaskaran in the dustbin. In the charge sheet, however, the only allegation that was found to be substantiated was the second allegation, that is, the appellant no. 1 - Mahalakshmi had thrown some of the personal belongings of the informant/respondent no. 2 – Rekha Bhaskaran on the ground, as they were not kept at the proper place. Further, appellant no. 1 – Mahalakshmi had cursed the informant/respondent no. 2 – Rekha Bhaskaran in foul words.

Concerning appellant nos. 2, 3 and 4, namely, Maharani T.S., Ranjanavadhan and Archana, respectively, the charge sheet alleges

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3 **For short "the Code"**

that they were present in the Panchayat, which was called to resolve the differences *inter se* the parties.

It is the contention of appellant no. 1 – Mahalakshmi that the assertions made in the complaint are false and incorrect. However, it is accepted that she was living and working in Canada. Further, sometime in March 2016, she visited India to attend her friend's wedding in Mysore and stayed there for nearly twenty days. Again, in September 2016, she had remained in India for almost 12 days when her father, accused no.2 – Surendra Prasad, was operated and hospitalized under critical care for two to three weeks.

About appellant nos. 2, 3 and 4, namely, Maharani T.S., Ranjanavadhan and Archana, respectively, it is also an accepted position that they were residing separately. In fact, appellant no. 2 – Maharani T.S., is a permanent resident of Secunderabad, Telangana. After marriage, accused no. 1 – Sarvan Kumar and the informant/respondent no. 2 – Rekha Bhaskaran were residing at Bengaluru, Karnataka.

We have been informed that a decree of divorce dated 17.11.2022 has been passed, dissolving the marriage. The informant/respondent no. 2 – Rekha Bhaskaran, has filed an appeal challenging the decree.

Having considered the charge sheet filed, we are of the view that the assertions made therein are very vague and general.[4] One

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4 See – ***Kahkashan Kausar @ Sonam and others*** v. ***State of Bihar and others***, (2022) 6 SCC 599; ***K. Subba Rao*** v. ***State of Telangana***, (2018) 14 SCC 452; ***Rajesh Sharma*** v. ***State of Uttar Pradesh***, (2018) 10 SCC 472; ***Arnesh Kumar*** v. ***State of Bihar***, (2014) 8 SCC 273; ***Geeta Mehrotra*** v. ***State of Uttar Pradesh***, (2012) 10 SCC 741; and ***Preeti Gupta*** v. ***State of Jharkhand***, (2010) 7 SCC 667.

instance unless portentous, in the absence of any material evidence of interference and involvement in the marital life of the complainant, may not be sufficient to implicate the person as having committed cruelty under section 498A of the IPC. Given that the appellants were not residing at the marital home, and appellant no.1 was not even living in India, the absence of specific details that constitute cruelty, we would accept the present appeal.

Accordingly, we quash the criminal proceedings against the appellants. However, we clarify that if any material comes on record during the recording of evidence, it will be open to the trial court to take recourse to Section 319 of the Code and proceed following the law.

We also clarify having not made any comments or observations on the allegations by the informant/respondent no. 2 – Rekha Bhaskaran and the charge sheet dated 20.07.2017, against accused nos. 1, 2 and 3, namely Sarvan Kumar, Surendra Prasad and Malathi Prasad, respectively.

The appeal is allowed and disposed of in the above terms.

There will be no order as to costs.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
NOVEMBER 30, 2023.