

Neutral Citation No. - 2024:AHC:146474

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

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A.F.R.

**Judgement Reserved on 27.08.2024**

**Judgement Delivered on 10.09.2024**

**Court No. - 79**

**Case :- APPLICATION U/S 482 No. - 9112 of 2019**

**Applicant :- Smt. Neha Tripathi @ Neha**

**Opposite Party :- State Of U.P. And 2 Others**

**Counsel for Applicant :- Pradeep Kumar Singh, Santosh Kumar Upadhyay**

**Counsel for Opposite Party :- Dharendra Singh, Dinesh Kumar**

**Maurya, G.A.**

**Hon'ble Anish Kumar Gupta, J.**

1. Heard Shri Rishabh Kumar Pandey holding brief of Shri Santosh Kumar Upadhyay, learned counsel for the applicant, Shri Ramesh Chand Yadav, learned counsel for the opposite party no. 3 and Shri Kamlesh Kumar Tripathi, learned A.G.A. for the State.

2. The instant application under section 482 Cr.P.C. has been filed seeking quashing of the entire proceedings of Criminal Case No. 11843 of 2018 (State of U.P. Vs. Naveen Kumar Verma and others ) arising out of Case Crime No. 490 of 2017 under section 498-A, 506, 120-B I.P.C. and 3/4 of Dowry Prohibition Act, 1961 (in short, '*the D.P. Act*'), Police Station- Civil Lines District Allahabad, pending in the court of Chief Judicial Magistrate, Allahabad as well as charge sheet No. 134 of 2018 dated 30.6.2018.

3. Learned counsel for the applicant submitted that no offence, whatsoever can be said to have been made out against the applicant herein as for the offence under section 498-A I.P.C., the accused must be either husband or relative of the husband of the victim. The applicant herein is neither the

husband nor the relative of the husband of the opposite party no. 3, therefore, she is not covered within the provisions of section 498-A I.P.C. and no offence whatsoever can be said to have been made out against the applicant herein. Similarly no offence under section 3/4 of D.P. Act can be said to have been made out against the applicant as she is not a family member or remote family member of the husband of the opposite party no. 3. It is further submitted that though the applicant herein has been implicated in the instant case only on the basis of some call details according to which husband of the opposite party no. 3 and applicant were having long conversation but the fact is that the husband of the opposite party no. 3 and the applicant were classmate and are good friends and the instant F.I.R. has been lodged only on the basis of suspicion on the part of the opposite party no. 3. No overt act has been alleged against the applicant except that she was in the talking terms with the husband of the opposite party no. 3. Similarly no offence under section 120-B I.P.C. would be made out against the applicant herein.

**4.** *Per contra*, learned counsel for the opposite party no. 3 submitted that it is only because of the applicant, the matrimonial life of the opposite party no. 3 has been spoiled and she has been ignored by her husband and various allegations have been made against the applicant and the husband of the opposite party no. 3 and a divorce petition has been filed by the husband of the opposite party no. 3 due to intervention by the applicant herein. Therefore, she was abetting the husband of the opposite party no. 3 to divorce the opposite party no. 3 with object to torture and harass her, therefore, she was also involved in view of the provisions of the section 120-B I.P.C. in the offence.

**5.** Learned A.G.A. on the other hand submitted that as per call details collected by the Investigating Officer, it is established that there was continuous conversation between the applicant and the husband of the opposite party no. 3, therefore, it should be presumed that she was abetting the husband of the opposite party no. 3 to divorce his wife/opposite party no. 3 for which cruelty was being committed by the husband upon the opposite

party no. 3 at the behest of the applicant herein. Therefore she is also involved in the offence.

6. Having considered the rival submissions made by learned counsels for the parties, this Court has carefully gone through the record of the case. From the record of the case it is apparent that the applicant herein is allegedly the friend of the husband of the opposite party no.3. As they were the college friends and used to talk to one another, the applicant herein has been implicated in the instant case for demand of dowry and harassment by the husband and the in-laws of the opposite party no.3. She has been implicated in the instant case with the strength of Section 128 I.P.C.

7. Before proceeding further it would be relevant to take note of the provisions of Sections 498-A, 506, 120B I.P.C. as well as 3/4 of the D.P. Act, for which the applicant has also been charged.

**Sections 120-B, 498A, 506 I.P.C.**

*"120-B. Punishment of criminal conspiracy.-(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

*(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."*

**Section 498-A. Husband or relative of husband of a woman subjecting her to cruelty-** *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

*Explanation.—For the purposes of this section, "cruelty means"—*

*(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*

*(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]*

**"Section 506. Punishment for criminal intimidation.-** *Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;*

***If threat be to cause death or grievous hurt, etc*** — *and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity*

to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

**Sections 3 and 4 of the D.P. Act.**

**"3. Penalty for giving or taking dowry.—**

*(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable [with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:*

*Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than [five years].*

*[(2) Nothing in sub-section (1) shall apply to, or in relation to,—*

*(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):*

*Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;*

*(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):*

*Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:*

*Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given].*

**4. Penalty for demanding dowry.--***If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:*

*Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months."*

**8.** From the plain reading of Section 498-A I.P.C., the offence can be made out under Section 498-A I.P.C. only against the husband or the relative of the husband of a woman, who allegedly subjects such woman to cruelty. The explanation under Section 498-A of I.P.C. defines what 'cruelty' means for the purpose of Section 498-A I.P.C. It provides that, *(1) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (2) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet demand.*

9. From the allegations as made in the instant case, there is no allegation of any harassment about the demand of dowry on the part of the applicant herein.

10. The applicant herein is neither the husband nor the relative of the husband but a friend of the husband and a friend of a husband cannot be in any way covered within the phrase of relative of the husband. Further, there is no allegation in the instant case with regard to any demand of dowry made by the applicant no.1 or any harassment for such demand of dowry. Further, there is no allegation of any wilful conduct by the applicant no. 1 herein, which is likely to try the opposite party no.2 to commit suicide or cause grave injury or danger to life, limb or health. Therefore, from the facts of the instant case no offence under Section 498-A I.P.C., is made out against the applicant herein.

11. Similarly, the provisions of 3/4 D.P. Act, would also not attract towards the applicant herein as there is no allegation of any demand of dowry by the applicant herein nor she can by any stretch of imagination be said to be the beneficiary of such dowry, if it is fulfilled. Further, there is no allegation of any sort that the applicant herein has ever talked or directly interfered in the matrimonial life of the opposite party no.2 and her husband except she was in talking terms with the opposite party no.2.

12. Therefore, in the considered opinion of this Court none of the offences as alleged in the instant case against the applicant herein can be said to have been made out and the applicant herein has been made an accused and has been maliciously prosecuted by the opposite party no.3 due to her suspicion of illicit relationship of the applicant with the husband of the opposite party no.3., without there being any action. They were alleged to have been on talking terms, being the college friends. Therefore, the instant case is nothing but a malicious prosecution of the applicant herein by the opposite party no.3. Consequently, the instant application is **allowed** and the entire proceedings of Criminal Case. No. Criminal Case No. 11843 of 2018 (State of U.P. Vs. Naveen Kumar Verma and others) arising out of Case Crime No. 490 of 2017 under sections 498-A, 506, 120-B I.P.C. and 3/4 of D.P. Act,

Police Station- Civil Lines, District Allahabad, pending in the court of Chief Judicial Magistrate, Allahabad as well as charge sheet No. 134 of 2018 dated 30.6.2018, are hereby ***quashed*** qua the applicant herein.

**Order Date :-** 10.9.2024

Shubham Arya

**(Anish Kumar Gupta, J.)**