



2025:DHC:1480



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 14th January, 2025
Date of Decision: 04th March, 2025

+ W.P.(CRL) 900/2024

SUNIL BAILWALPetitioner
Through: Mr. Rituparn Uniyal, Advocate

versus

GOVT. OF NCT OF DELHI AND ANOTHERRespondents
Through: Mr. Yasir Rauf Ansari, ASC for State
with Mr. Alok Sharma and Ms. Vasu
Agarwal, Advocates
Mr. Amitesh Pandey, Advocate for
R-2

+ W.P.(CRL) 987/2024

KHUSI RAM BAILWAL AND OTHERSPetitioners
Through: Mr. Rituparn Uniyal, Advocate

versus

STATE NCT OF DELHI AND ANR.Respondents
Through: Mr. Yasir Rauf Ansari, ASC for State
with Mr. Alok Sharma and Ms. Vasu
Agarwal, Advocates
Mr. Amitesh Pandey, Advocate for
R-2

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

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J U D G M E N T



MANMEET PRITAM SINGH ARORA, J:

1. W.P. (Crl.) 900/2024 has been filed by the Petitioner/husband of Respondent No. 2/complainant seeking quashing of the FIR No. 514/2022 dated 06.08.2022, registered at Police Station (P.S) – Lajpat Nagar, South East, New Delhi for the offences punishable under Sections 498A/406/34 of Indian Penal Code, 1860 (IPC) and along with all other proceedings arising therefrom qua the Petitioner/husband.

2. W.P. (Crl.) 987/2024 has been filed by the father-in-law [Petitioner No. 1], mother-in-law [Petitioner No. 2] and sisters-in-law [Petitioner Nos. 3 and 4] of Respondent No. 2/complainant seeking quashing of the FIR No. 514/2022 dated 06.08.2022, registered at Police Station (P.S) – Lajpat Nagar, South East, New Delhi for the offences punishable under Section 498A/406/34 of Indian Penal Code, 1860 (IPC) and along with all other proceedings arising therefrom qua the Petitioners.

3. Since both the quashing petitions arise out of the same FIR and there is similitude of facts as well, therefore, both the petitions were heard together and are being decided by this common order.

4. The facts are being narrated from the perspective of the husband, i.e., Sunil Baliwal as set out in W.P. (Crl.) 900/2024.

5. It is stated in the petition that Petitioner/Sunil married Respondent no. 2 on 10.02.2019 at Delhi and thereafter lived together in Tehri Garhwal, Uttarakhand (matrimonial home). After residing together for two months, the Petitioner in the month of April, 2019 left for Singapore to join his workplace where he worked as a chef in a restaurant. It is stated that at the request of Respondent no. 2 he dropped her at her parental home in New Delhi. It is stated since then Respondent no. 2 had been living at her



parental home and would occasionally visit her matrimonial home for a few days from time to time.

5.1. It is stated that in August, 2019 Khushi Ram Bailwal, the father of the Petitioner (i.e. the father-in-law) met with an accident and fractured his leg. It is stated that Petitioner requested Respondent no. 2 to return to her matrimonial home to take care of his parents. It is stated that, however, Respondent no. 2 declined the request of the Petitioner.

5.2. It is stated that between September 2019 to October 2020 (for 13 months), Respondent no. 2 came to the matrimonial home from time to time and stayed for a week at a time and left thereafter. It is stated that this conduct of Respondent no. 2 was objected by the parents of the Petitioner i.e., the father-in-law and the mother-in-law, which led to differences between the parties. And, lastly on 21.10.2020 Respondent no. 2 left for her paternal home at Delhi, and she was adamant not to return to the matrimonial home.

5.3. It is stated that Petitioner opened a joint bank account with Respondent no. 2 in PNB Bank, Rishikesh wherein he regularly deposited money to provide for the personal expenses and maintenance of Respondent no. 2.

5.4. It is stated that on 19.01.2021 Respondent no. 2 filed a complaint case under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('DV Act') against the Petitioners in the Mahila Court, South-East, Saket Courts at Delhi. It is stated that on 11.06.2021 she also filed the petition under Section 125 Cr.P.C. for grant of maintenance which is pending adjudication before the Family Court, South-East, Saket Courts, Delhi



5.5. It is stated that due to the Covid-19 pandemic the restaurant in Singapore where the Petitioner was working closed down and due to lack of work, he returned to India in August 2021.

5.6. It is stated that on 06.08.2022 the subject FIR was filed under Section 498A/406/34 IPC against the Petitioners and other family members who are Petitioners in W.P. (Crl.) 987/2024.

Arguments on behalf of the Petitioners

6. Learned counsel for the Petitioners states that the FIR against the Petitioners is vexatious and does not disclose commission of any offence and the dispute is of matrimonial differences which has been given a criminal color to harass the Petitioner/husband and his family members.

6.1. He states that the allegations made in the FIR are false and even if the contents are taken at face value, they do not contain allegations of cognizable offences. He states that allegations are vague, fictitious and general in nature which can't be substantiated during the trial. He states that the allegations pertain to alleged incidents which occurred prior to the marriage. He states that Petitioners' case is squarely covered by decisions of the Supreme Court in **State of Haryana v. Bhajan Lal¹**, and **Abhishek Kumar Singh v. State of Uttar Pradesh²**.

6.2. He states that notwithstanding the submissions on merits, since no part of the alleged offence was committed within the jurisdiction of Delhi, therefore, the FIR cannot be registered at Delhi.

6.3. He states that Respondent no. 2 rarely stayed at the matrimonial home in Uttarakhand and was mostly living at her paternal home in Delhi.

¹ 1992 Supp (1) SCC 335

² 2023 SCC OnLine SC 1083



6.4. He states that Respondent no. 2 had approached the local police on 13.10.2020 at Tehri, Garhwal, Uttarakhand for securing her goods and articles from her matrimonial home in the almirah; however, at that time she did not make any complaint of harassment or dowry demand to the police at Tehri, Garhwal, Uttarakhand. He states that there is a delay of 3 years and 5 months in registration of the FIR which raises a suspicion on the veracity of the allegations made by Respondent no. 2.

Submissions of the Respondent No. 2/Complainant

7. Mr. Pandey, learned counsel for Respondent No. 2 states that on 13.10.2020 she had called her brother to take her away from the matrimonial house and she had reported that she was leaving to the local police so that no untoward incident happens to her. She states that, however, on the said date she did not take away her jewelry or stridhan. She states that she chose to leave the matrimonial home due to the cruelty met out to her by the Petitioners.

7.1 She states that the money from the joint account held with the Petitioner/husband was withdrawn on the instructions of the father-in-law and handed over for household expenses.

7.2 She states that Petitioner/husband has failed to pay maintenance awarded by the Mahila Court.

Submissions of the Respondent No.1/ State

8. Learned ASC states that during the pendency of this petition the charge-sheet has since been filed and the Petitioners can raise the contention with respect to lack of territorial jurisdiction before the Trial Court as well. He states that all these pleas will be available before the Trial Court which can examine the pleas in the context of the evidence placed on record with



the chargesheet. He states that during investigation Respondent No. 2 has provided bills of jewelry worth Rs. 6.3 lakhs approximately and she has also furnished medical documents to prove that she is receiving treatment for depression due to her married life.

Findings

9. This Court has considered the submissions of the learned counsel for the parties and perused the record.

10. In the Court's considered opinion, the contentions raised by the learned Counsel for the Petitioner(s) cannot be considered at the present stage. Based on the investigation, the prosecution has already filed a charge-sheet. All the contentions that are now being raised before this Court can also be raised before the learned Trial Court at the stage of framing of charges. A perusal of the FIR shows that the basic facts which are necessary for making out the offences have been pleaded. The factual foundation for the offence has been made out in the FIR with respect to monetary demands prior to the wedding including urging the bride's family to bear the entire expense of the wedding functions followed by the alleged cruelty met out to Respondent no. 2 in her matrimonial home by her in-laws. Whether these abovementioned allegations relating to dowry made by Respondent No.2/wife are true or have been maliciously made, is a matter of fact which will need appreciation of evidence adduced in this regard. In this regard, averments at paragraph nos. 4, 7 and 11 of the translated copy of the FIR are relevant.

11. In addition, pursuant to the registration of FIR No. 514/2022 and petition under Section 125 CrPC filed by Respondent No.2, Respondent No.2 has claimed, in her written statement filed before this Court, that the



Petitioner(s) have filed the present writ petition only to harass her and the Petitioner/husband is also not duly paying the maintenance awarded by the learned MM, which is again a matter a fact required to be examined.

12. In this regard it would be relevant to refer to the observations made in **State of Haryana & Ors. v. Bhajan Lal & Ors.** (supra) wherein the Supreme Court laid down the premise on which the FIR can be quashed in rare cases. The following observation is a sound reminder which reads as under:

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

13. The Petitioners have denied the allegations levelled by the complainant in the FIR. It is a well settled law that disputed questions of fact cannot be adjudicated while exercising writ jurisdiction. This Court cannot adjudicate these disputed facts on the bare pleading of the parties and the Trial Court would be better suited to adjudicate the rival contentions on the basis of the material placed before it. In this regard it would be apposite to refer to the observation made by the Coordinate Bench of this Court in **Avneesh Gupta v. State of NCT of Delhi**³ which reads as under:

“28. Adverting to the case in hand, the petitioner has raised pure question of facts for determination in the writ proceeding. **It is well known that in a writ petition, ordinarily such disputed question of**

³ 2013 SCC OnLine Del 3446



facts is not to be entertained. The moment there is a debatable area in the case, it is not amenable to the writ jurisdiction of the High Court under Article 226 of the Constitution. This Court in exercise of jurisdiction under Article 226 of the Constitution cannot adjudicate the matter where the foundational facts are disputed. Rival contentions of the parties cannot be decided in a writ proceeding as held in *Himmat Singh v. State of Haryana*, (2006) 9 SCC 256; *Mukesh Kumar Aearwal v. State of Uttar Pradesh*, (2009) 13 SCC 693; *Bhagavat Singh and etc. v. State of Tamil Nadu*, 1998 Cr. LJ 3513. **This Court is not required to embark upon an enquiry whether the allegations in the petition which are controverted by the respondents are correct or not.** It cannot be said that the allegations made in the complaint which culminated in registration of FIR, even if taken at their face value and accepted in their entirety, do not prima facie set out any offence or make out a case against the accused. The investigation is still at threshold and petitioner no. 1 has not even joined the investigation. Under the circumstances, it is not a case where the Court should exercise its discretion by quashing the FIR.”

(‘Emphasis Supplied’)

14. As far as the lack of territorial jurisdiction is concerned, it has been alleged by the Petitioner that Respondent No. 2 rarely stayed with the Petitioner during the subsistence of their marriage, and she mostly stayed at her parental house in Delhi. The Petitioner states that no cause of action has arisen in Delhi, rather the incidents had occurred in the matrimonial home at Tehri Garhwal, Uttarakhand and thus, no part of the alleged offences in FIR No. 514/2022 were committed in Delhi and therefore it is contended that, Respondent No. 1 has no jurisdiction to entertain the FIR No. 514/2022. However, the complainant in the FIR has specifically pleaded that demands for dowry were raised with her family at Delhi and were complied with. All these rival allegations need to be considered by the learned Trial Court after hearing the parties and appreciating the evidence. Moreover, the Supreme



Court in **Rupali Devi v. State of Uttar Pradesh & Ors.**⁴ has held that the place where the wife takes shelter after leaving or being driven away from the matrimonial home on account of acts of cruelty committed by the husband would also have the requisite jurisdiction for trying the offence under Section 498A IPC. The relevant portions of the same are extracted as under:

“15.....The provisions contained in Section 498A of the Indian Penal Code, undoubtedly, encompasses both mental as well as the physical well-being of the wife. Even the silence of the wife may have an underlying element of an emotional distress and mental agony. **Her sufferings at the parental home though may be directly attributable to commission of acts of cruelty by the husband at the matrimonial home would, undoubtedly, be the consequences of the acts committed at the matrimonial home. Such consequences, by itself, would amount to distinct offences committed at the parental home where she has taken shelter. The adverse effects on the mental health in the parental home though on account of the acts committed in the matrimonial home would, in our considered view, amount to commission of cruelty within the meaning of Section 498A at the parental home.** The consequences of the cruelty committed at the matrimonial home results in repeated offences being committed at the parental home.

16. We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code.

(‘Emphasis Supplied’)

Thus, if in the facts of this case, the Trial Court is satisfied that the complainant was subjected to cruelty by her in-laws in her matrimonial

⁴ (2019) 5 SCC 384



2025:DHC:1480



home which led her return to Delhi, the Courts at Delhi would have requisite jurisdiction to try the offence.

15. This Court at this juncture cannot undertake a detailed examination of each and every piece of material produced before it in a summary manner to ascertain as to whether or not the Petitioners are guilty of the charges or not. The Petitioners will have sufficient opportunity to place their entire case before the learned Trial Court at the time of framing of charges given that the charge-sheet has already been filed before the Trial Court.

16. As narrated above, under these facts and circumstances, it is not a case where the Court should exercise its discretion by quashing the FIR. Accordingly, there are no merits in the present petitions and the same are dismissed.

17. Pending applications (if any) are disposed of as infructuous.

18. It is made clear that any observation made in the present order is for deciding the present petition and shall not, in any manner, influence the learned Trial Court during adjudication of the further proceedings emanating from the FIR No. 514/2022 registered at P.S. Lajpat Nagar, Delhi including while hearing arguments on framing of charge.

MANMEET PRITAM SINGH ARORA, J

JANUARY 14, 2025/mt/AM/MS