

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. M. No. 1397 of 2001

Deepika Tiwary

...

Petitioner

Versus

1. The State of Jharkhand

2. Lala Rukh Shala @ Shahla Rayee ... Opposite Parties

---

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

---

For the Petitioner : Mr. A. S. Dayal & Miss S. Dayal

For the State : Mr. Manoj Kumar, A. P. P.

---

**Order No. 10**

**Dated 6th January, 2015**

Heard the learned counsel for the petitioner and the learned counsel for the State. No one appears on behalf of the opposite party No. 2 in spite of valid service of notice upon her.

In the present criminal miscellaneous petition, the petitioner has prayed for quashing the entire criminal proceedings including the order dated 12.6.2000 passed by the learned Judicial Magistrate, Ranchi in Complaint Case No. 295 of 2000, whereby and whereunder cognizance has been taken for the offence u/s 498A, 323, 406 of the Indian Penal Code (I.P.C.).

The prosecution story as it appears from the complaint petition filed on behalf of the opposite party No. 2 herein is that the complainant was married to Dr. M.G. Rayee according to Muslim rites and customs on 20.11.1988. It was alleged that after marriage there was a demand of Maruti car and for non-fulfillment of which, the accused No. 1 to 5 started abusing and torturing the complainant, but subsequently at the intervention of well wishers, the matter was settled. It is relevant to mention herein that on 24.11.1988 once again demand was made with regard to Maruti car and subsequent thereto since the said demand was not fulfilled, the complainant was tortured. It has been alleged that at the time the complainant gave birth to a male child, she was once again mentally and physically tortured. The complainant further adds that the accused No. 1 who is her husband was having illicit relationship with a Keralian nurse. Thereafter it has been stated that in the month of November, 1995 on the date of marriage anniversary of the complainant, her husband disclosed that he is going to marry the present petitioner and he was having love affair with her since long. It has also been stated in the complaint petition that the accused No. 1, i.e. the husband of the

2.

complainant, had purchased a flat for accused No. 6 who is the present petitioner and also provided her with a cellular phone.

Based on the aforesaid facts, the complaint case was instituted against in-laws of the complainant as well as the present petitioner who was arrayed as accused No. 6 in the complaint case.

After examination of the witnesses of the complainant as well as the complainant on S.A., cognizance was taken on 12.6.2000 by the learned Judicial Magistrate, Ranchi for the offence u/s 498A, 323 and 406 I.P.C.

Learned counsel for the petitioner has submitted that so far as the present petitioner is concerned, the allegations levelled against her in the complaint petition do not make out a case u/s 498A I.P.C. He has further submitted that the only allegation as would be evident from the complaint petition is that the husband of the complainant was alleged to be having an illicit relationship with the petitioner and on account of such relationship, he is alleged to have purchased a flat for her and had also given her a cellular phone. Learned counsel for the petitioner further submits that on the face of the complaint petition, no offence under the provisions of Section 498A I.P.C. is made out so far as the petitioner is concerned.

Learned counsel for the State on the other hand has stated that the husband of the complainant was having an illicit relationship with the petitioner and on account of the said relationship, the complainant was tortured by the accused No. 1.

After hearing the learned counsel for the parties and after going through the records, it appears that the allegations, which have been levelled against this petitioner in the complaint petition, have been mentioned in paragraphs-15 and 18 which are reproduced herein below:-

*"15. That it is stated that in Nov' 95 on the marriage anniversary accused No. 1 disclosed to complainant that he is going to marry with Deepika Tiwary, D/O Bishwanath Tiwary the accused No. 6 who has been named Ayesha with whom he is having an affair since long time and on such disclosure the complainant was so much depressed that she wanted to commit suicide but for the sake of children she controlled herself.*

*18. That it is stated that the accused No. 1 had purchased a flat for accused No. 6 and had also given her a cellular phone."*

3.

Apart from the aforesaid paragraphs, there is no whisper against this petitioner of having indulged in any manner so as to attract the offence for which cognizance has been taken.

In this context, it would be apt to refer to the case of **U. Suvetha v. State by Inspector of Police & Another**, reported in **(2009) 6 SCC 757** in which while considering the term relative of the husband as mentioned in Section 498A I.P.C., the Hon'ble Supreme Court has held thus:-

*"18. By no stretch of imagination would a girlfriend or even a concubine in an etymological sense be a "relative". The word "relative" brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise."*

It would thus appear, even if it is assumed that the allegations against the petitioner is true, in the given circumstances since the status of the petitioner does not come within the definition of 'relative' as envisaged u/s 498A I.P.C., she cannot be proceeded against for the offences committed under the said section. So far as the Section 323/ 406 I.P.C. is concerned, allegations have been specifically levelled against other accused persons and in that context also the complaint petition does not reveal any offence so as to prosecute the petitioner in this present criminal case.

After having considered the factual aspect of the matter coupled with the judicial pronouncement mentioned above, I do find it a fit case for invoking the inherent jurisdiction bestowed upon this court u/s 482 Cr.P.C. and accordingly, the entire criminal proceedings including the order dated 12.6.2000 passed by learned Judicial Magistrate, Ranchi in Complaint Case No. 295 of 2000, by which cognizance has been taken for the offence u/s 498A, 323, 406 I.P.C. is quashed so far as the petitioner is concerned.

This application is allowed.