

Jharkhand High Court

V.P. Dhanesh vs State Of Jharkhand on 23 September, 2003

Equivalent citations: 2004 (1) BLJR 177, 2004 CriLJ 1036, I (2004) DMC 727, 2003 (4) JCR 288 Jhr

Author: V Prasad.

Bench: V Prasad

JUDGMENT Vikramaditya Prasad. J.

1. This application under Section 482, Cr PC for quashing the entire criminal proceeding as well as the order dated 19.5.2003, whereby cognizance of the offence was taken by the Chief Judicial Magistrate, Seraikella, under Section 498A, IPC and under Section 3 and 4 of the Dowry Prohibition Act in connection with Adityapur P.S. Case No. 230/02, G.R. Case No. 773/02, now pending in the Court of SDJM, Seraikella.

2. In this case, the FIR was lodged by the wife, which reads as follows :--

"On 7.12.2002 my husband abused me with the filthiest language and threatened me with death in the event I did not cater to his whims and fancies, My husband is an alcoholic person who regularly takes drink and thereafter makes it custom to beat me/his wife and during the course of such beating hurls/heaps abusive languages upon me and my parents.

Our marriage was a result of love but with the consent of family members of both parties. The marriage held on 16th day of January, 1996 at Jamshedpur, at Adityapur Guest House, Adityapur Main Road, Adityapur, according to Hindu rites.

My husband originally hails from Kerala and the address of his parents as known to me as Mr. V.K. Purshthaman, "REMYA" Main Road, P.O. Punnapra, District Alleppey, Kerala Pin-688044.

Earlier on 27th March, 1999, I was forced to leave my husband because of his drinking habits and wife-beating tendencies. But because of my motherhood and also due to intervention of my father-in-law and the apologies of my husband, I had consented to return and start my matrimonial life afresh. It may be pertinent to record herein that at that period I had also gained employment as a Teacher with DAV Public School, RIT Compus, Adityapur, but I had to leave the same because I had consented to return and start my matrimonial life with my husband afresh. But most unfortunately things remain unchanged.

I am now compelled to leave my husband house because he wants to earn money through me immorally and illegally. He is also forcing and torturing me to take substantial money from my parents. Unable to cope up with such physical and mental tortures which are increasing daily and also with the ageing of my son, I could no longer stay with my. husband and as such return to my father's home on 7.12.2002.

3. On perusal of the FIR itself, it is clear that the marriage was the result of love affairs between the informant and the petitioner and there is no allegation that despite this love affairs, some dowry was

demanded by the petitioner or his family members before marriage. Therefore, the question of demanding dowry for the marriage is belied from the statements made in the FIR itself. Then the second question is whether there is any offence committed under Section 4 of the Dowry Prohibition Act? Section 4 of the Dowry Prohibition Act reads as follows :--

"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."

4. The words, "bride" and "bridegroom" have been used in this section. Bride means "newly married woman or a woman about to be married or very recently married" and Bridegroom means "newly married man or one about to be married. He that hath the bride is the bridegroom" Law Lexicon of P. Pramanatha Aiyer. In the instant case, the marriage had taken place in the year 1996 and the case had been filed in the year 2000. As neither the petitioner, nor the informant is about to be married, they come under the category of already married. Obviously, the Section 4 will apply, if any demand directly or indirectly was made from the parents or other relations or guardians of the bride or bridegroom. After 4, years of marriage, the status of "Bride" and "Bridegroom" has un-disputedly changed into husband and wife, or that of spouse and for such couple, the words, "bride or bridegroom" cannot be used. There is, in my opinion, some positive objection in using a particular word in a particular section of law by the legislature and it appears to me that these words were used to prevent such demands when the marriage was then to take place or if already taken place, the matrimony was in its great infancy.

5. Section 498A, IPC reads as follows :--

"498A. 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 purpose of this section 'cruelty' means,--

(a) any willful 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 is on account of failure by her or any person related to her to meet such demand."

6. Here in this section, the word used is "relative of husband of a woman" or "the husband". The words "bride or bridegroom" have not been used in this section. The woman has been defined under Section 10, IPC "woman denotes a female human being of any age." The word "woman" has also been used under Sections 304B and 376, IPC.

7. There is nothing in the Dowry Prohibition Act, 1961, to import the definition of bride or bridegroom from IPC or any other Act and to construe these words as per the definition of IPC and bring 'bride' within the definition of a 'woman' as given in the IPC. Therefore, the Literal Dictionary meaning of these words has to be used while dealing with the cases arising out of Dowry Prohibition Act.

8. On the basis of the discussion made above, it is held that the Section 4 of the Dowry Prohibition Act is not applicable in the facts and circumstances of this case as at the time when alleged demand was made, the husband was not a bridegroom, nor the wife a bride.

9. But nevertheless, as the complaint came under the definition of a woman and the husband a remained husband, the demands make out a case of mental cruelty also, so the cognizance and proceeding under Section 498A, IPC is legal and cannot be interfered with. The proceeding in respect of offences under Sections 3 and 4 of the Dowry Prohibition Act is quashed.

10. With the aforesaid observations/ directions, this application is allowed in part.