

Delhi District Court

Man Mohan Sharma vs State Of Nct Of Delhi on 25 February, 2011

Author: Dr. Kamini Lau

IN THE COURT OF Dr. KAMINI LAU: ADDL. SESSIONS
JUDGE-II (NORTH-WEST): ROHINI COURTS: DELHI.

Criminal Revision No. 377/2010

1. Man Mohan Sharma
(Advocate)
B-33, South Moti Bagh
New Delih.

..... Petitioners/ Revisionists

VERSUS

State of NCT of Delhi.

..... Respondent

ORDER

This revision petition has been preferred by the revisionist Man Mohan Sharma a Law Officer with the Coast Guards against the order of Ld. Trial Court dated 2.11.2010 summoning him as an accused in case FIR No.230/01, Police Station Prashant Vihar under Section 498A/406/34 IPC.

According to the revisionist the present FIR No.230/01 under Section 498A/406/34 IPC at Police Station Prashant Vihar was registered on the statement of Bhawna Sharma (his sister-in-law) wherein Shyam Sunder Sharma (her husband and his brother), Smt. Shakuntala (her mother-in-law and his mother) and Rama Joshi (her sister-in-law and his sister) were chargesheeted whereas Man Mohan Sharma (brother of her husband) was put in Column No.2. It is pleaded that on the application of the complainant, the Ld. Trial Court vide impugned order dated 2.11.2010 was pleased to direct the summoning of present revisionist Man Mohan Sharma, which order is now under challenge on the grounds that the Ld. Trial Court had failed to appreciate that the complainant has no legal right, title interest and locus standi to move an application for summoning the revisionist and had failed to appreciate that fact that the application was moved by the complainant and not by the prosecution agency for impleading him (the preset revisionist) as an accused as there is no legal evidence for proceeding against him. It is pleaded that the Ld. Trial Court has committed the gross error of law on the face of record and has acted contrary to the principles of natural justice, equity, good conscience and fair trial by ignoring the finding of the investigating agency and has not given any reason for discarding the findings of the investigating agency.

It is submitted that the Ld. Trial Court has taken cognizance against the petitioner only on the allegations that on 23.10.1998 he had asked the complainant to bring more money for her husband and when she showed her helplessness, he slapped and threatened her. It is stated that these allegations are vague, conjecture and surmises and does not satisfy the ingredients for invoking the applicability of Section 498/406/34 IPC against him. It is also submitted that the Ld. Trial Court has passed the impugned order without considering the chargesheet containing the statements of the witnesses and other material placed on record and by doing so has committed a gross error of

law on the face of record by considering the fact that the provisions of Section 204 Cr. PC is applicable in the present circumstances and further that the investigating agency had already concluded that there was no legal evidence against him.

I have gone through the impugned order, the grounds raised by the revisionist, the oral submissions made before me and the written synopsis / memorandum of arguments placed on record by the revisionist Man Mohan Sharma and also by the complainant Bhawna Sharma.

Firstly, at the very outset, it is necessary to highlight that in the first complaint filed by the complainant Bhawna Sharma, which is a typed complaint given to the Deputy Commissioner of Police, the only allegations made against the present revisionist Man Mohan Sharma as mentioned in Para 3 and Para 14. In so far as the allegations made in Para 3 are concerned, they are general allegations regarding demand of dowry and cash from her parents. However, in Para 14, the complainant Bhawna Sharma has specifically stated that on 23.10.1998 the present revisionist Man Mohan Sharma, who is brother of her husband, had asked her to bring more money for her husband and when she showed her helplessness, she was slapped and threatened by him. Apart from this, there are no other allegations in the entire complaint.

Secondly, it is evident from the complaint that in Para 27 the complainant Bhawna Sharma has demanded action only against her husband Shyam Sunder Sharma and her mother-in-law Smt. Shakuntala Sharma for all the cruelty, tortures, beating, pains, depression and sufferings given to her for non-fulfilling their greedy desires and illegal demands of dowry. The complainant Bhawna Sharma has nowhere in her complaint sought any kind of action either against Man Mohan Sharma (her brother-in-law/ jeth) or against Smt. Rama Joshi (her sister- in-law/ nanad). In this regard, Para 27 of the complaint is reproduced as under :

"That I, Bhawna Sharma, the complainant has been in great depression and fear since the very day of my marriage and my husband, his mother, sister and brother Mr. Man Mohan Sharma have never treated me well or with respect. I, the complainant hereby seek the help of your good office to get my stridhan including the car (No. DL 9C 6121) and other items back from Shri Shyam Sunder Sharma (list enclosed) and also take strict action against Mr. Shyam Sunder Sharma, my husband and Mrs. Shakuntla his mother, for all the cruelty, tortures, beating, pains, depression and sufferings given to the complainant for non fulfilling their greedy desires and illegal demands of dowry".

Thirdly, it is evident from the chargesheet that even during investigation no evidence / material had come on record against the present revisionist Man Mohan Sharma and he was therefore kept in Column No.2 and the only material against him were the allegations made in Para 3 and Para 14 of the typed complaint given by her to the Deputy Commissioner of Police. I may also add that nowhere in any of the subsequent statement to the investigating officer, the complainant Bhawna Sharma has desired any action against Man Mohan Sharma and it is for the first time that she moved an application in the court seeking summoning of Man Mohan Sharma the revisionist before this court who had been kept in Column No.2.

Fourthly, it is evident from the record that during the course of investigations the investigating officer Inspector Ashok Kumar had duly interrogated the revisionist / Man Mohan Sharma and it was revealed that at the time of the alleged incident dated 23.10.1998 as mentioned in Para 14 of the complaint, the revisionist Man Mohan Sharma was not in Delhi and was in fact posted at Mumbai being a government servant. This fact is also reflected from his service record certificate issued by the Commandant Director (Personnel) for Director General, Coast Guards, that the revisionist Man Mohan Sharma was posted at Mumbai in the Head Quarter, Coast Guard Region (West) as Deputy Regional Law Officer w.e.f. 31.10.1996 to 31.12.1998 and was thereafter posted at Port Blair in the Head Quarter, Coast Guard Region (A&N) as Deputy Law Officer w.e.f. 1.1.1999 to 15.8.2001. Though, at the time of filing of the chargesheet the said certificate showing the period and place of posting of the revisionist Man Mohan Sharma was not verified but now at this stage while hearing the revision petition, this court directed the investigating officer to confirm and verify the same and inform this court his place of posting in October, 1998. The investigating officer has got this aspect verified and has reported that as per the verification conducted from the Director (Personnel), Coast Guard Head Quarter, it stands confirmed that the accused Man Mohan Sharma was residing separately at Mumbai during the period 31.10.1996 to 31.12.1998 and at Port Blair thereafter till the year 2001. This being so, the incident dated 23.10.1998 as narrated by the complainant in her complaint does not stand confirmed.

Fifthly, the charge sheet in respect of the alleged incident of 1998 had been filed in the year 2003 and now it is for the first time after almost after more than seven year that the applicant Man Mohan Sharma has been summoned at the stage of framing of charges on the ground that there were specific allegations against him with regard to the incident dated 23.10.1998. This it appears, was done by the Ld.Trial Court being unaware of this certificate showing the posting details of revisionist issued by the competent authority i.e. Director (Personnel), Coast Guards, under whom the revisionist Man Mohan Sharma was posted showing that Man Mohan Sharma was present at Mumbai on 23.10.1998.

Lastly, I am compelled to observe that Section 498A IPC in the recent years has become consummate embodiment of gross human rights violation, extortion and corruption and even the Apex Court of our country had acknowledged this abuse and termed it as Legal Terrorism. The provisions of Section 498 A IPC are not a law to take revenge, seek recovery of dowry or to force a divorce but a penal provision to punish the wrong doers. The victims are often misguided into exaggerating the facts by adding those persons as accused who are un-connected with the harassment under a mistaken belief that by doing so they are making a strong case. Courts cannot be a party to any kind of exploitative situation and it is necessary for every complainant to remember that it is only an honest complaint which succeeds in law where contents are supported by facts on the ground and persons, who are not connected with the harassment, should never be arrayed as accused. The platform of the courts cannot be permitted to be used to wreck personal vendetta or unleash harassment and the tendency of the complainants to come out with inflated and exaggerated allegations by roping in each and every relation of the husband is required to be deprecated. The obligation of the court is to ensure that innocent persons are not put to harassment and to curtail the frivolous allegations at the earliest stage by looking for due corroboration from the facts. (Ref.:- Savitri Devi Vs. Ramesh Chand & Ors., CRL (R) 462/2002 decided on 30.5.2003);

Criminal Appeal No. 339-41/05 datde 2.3.2010, Delhi High Court; Arjun Ram Vs. State of Jharkhand & Anr., 2004 CLJ 2989; Mukesh Rani Vs. State of Haryana, 2002 (1) RCR (Criminal) 163 and Anu Gill Vs. State & Anr., 2001 (2) JCC (Delhi) 86.

I may further add that in any matrimonial dispute, it is the primary duty of every court to ensure that for any fault of the husband, his other relatives including married sisters and brothers who may be living jointly or separately and the aged parents are not involved either out of vengeance or to curl out appropriate settlement.

This being the background, I hold that this is a fit case requiring judicial intervention in revisional jurisdiction. I hereby set aside the order of Ld. Trial Court dated 2.11.2010 summoning the present revisionist Man Mohan Sharma as an accused and accordingly discharge him. The revision petition is accordingly disposed off. The Trial Court record be sent back along with copy of this order. Revision file be consigned to Record Room.

Announced in the open court
Dated: 25.2.2011

(Dr. KAMINI LAU)
ASJ (NW) -II: ROHINI