

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : INDIAN PENAL CODE

Reserved on: 12.02.2007

Date of Decision: February 21, 2007

CRL.M.C.7108/2006

Smt. Neera Singh

..... Petitioner

Through:Mr. L.B. Rai and Mr. V.K. Singh, Advocates

versus

THE STATE(GOVT.OF NCT OF DELHI) & ORS.....Respondents

Through: Mr. Vikas Arora, Advocate for respondent

Ms. Richa Kapoor with Ms. Sukriti Bhardwaj, Advocates
for State.

JUSTICE SHIV NARAYAN DHINGRA

1. This petition under Section 482 of Cr.P.C. read with Section 397 and 401 of Cr.P.C. has been made on behalf of the petitioner for quashing/setting aside order dated 25th April, 2006 passed by, Additional Sessions Judge whereby the learned ASJ observed that no charge was made out against two minor girls namely Kamlesh and Mamta Rani, sister in laws of the complainant (husband's sisters) under Section 498A of the IPC.

2. A perusal of the FIR would show that the allegations against the two minor girls are that on the directions of their mother they stopped doing household work and they used to tell her "bhabhi you have not brought gold items for us, how we will give reply to our friends". Complainant after narrating the words used by respondent stated that it had become clear to her that her in -laws were greedy and they were making demands of gold ring, gold chain etc. from her.

3. Considering the allegations made by complainant in her statement to the police and in the FIR, the learned ASJ observed that the ingredients under Section 498A of

the IPC were not made out against the minor girls Kamlesh and Mamta. The complainant had also not stated as to on which date such remarks as alleged were made by the two girls. There were no allegations of either physical or mental torture by these two girls and, therefore, he considered that no case was made out against the two minor girls under Section 498A of the IPC.

4. It is submitted by the petitioner that the learned ASJ has failed to appreciate that there were sufficient allegations in the complainant/FIR to constitute offences under Section 498A of the IPC. Section 498A IPC reads as under:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative or 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 or is on account of failure by her or any person related to meet such demand.]”

5. Cruelty as defined in Section 498A of the IPC must meet the following requirements:

1. There should be harassment of the woman.

2. Harassment should be with a view to coercing her or any person related to her to meet the unlawful demand of a property or valuable security.

3. The harassment may be even where on account of failure by woman or any person related to her to meet any such demand earlier made.

6. The cruelty perpetuated on a woman may be physical or mental. However, not doing household work by minor girls either of their own or at the instance of their mother, as alleged, cannot be stated to be cruelty to the woman or the utterances as assigned to these two minor girls that she had not brought any gold item for them would amount to harassment being made by minor girls for the purpose of coercing her or her relatives to meet the unlawful demands.

7. Now-a-days, it has become a tendency to make vague and omnibus allegations against every member of the family of the husband, involving everybody under Section 498A and 406 of the IPC by making one or the other allegations. Hence, it

has become very necessary for the Courts to carefully scrutinize the allegations and to find out if the allegations made really constitute the offence and meet the requirements of law at least prima facie. The learned ASJ scrutinized the entire FIR and the statement of complainant and thereafter observed that no case was made out against these two minor girls. I have also gone through the record and find that except above allegations made by the complainant, no other role was assigned to these two minor girls (respondents).

8. In view of the my foregoing discussion, I find no infirmity in the order passed by learned ASJ. The petition is hereby dismissed being devoid of merits.

Sd/-
SHIV NARAYAN DHINGRA, J.