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Mohit Gupta & Others v. State Govt. Of Nct Of Delhi & Anr .

Delhi High Court (Oct 16, 2006)

CASE NO.

CRL REV P. No. 168/2005

ADVOCATES

PRESENT: Mr. O.P Wadhwa, Adv. for the Petitioner.

Ms. Richa Kapur, Adv. for the State.

Mr. Ajay Uppal, Adv. for the Complainant.

JUDGES

Badar Durrez Ahmed, J.

IMPORTANT PARAS

1. 8. These are undoubtedly strong words and clearly show that a person who ostensibly contracts a marriage with a woman and lives with her as husband and wife would also be covered within the meaning of the expression “husband” used in section 498-A IPC. But the matter does not stop here. The Supreme Court, in the case of Shivcharan Lal Verma (supra), which is a decision of a three-judge bench, was of the contrary view. The facts in that case were that during the lifetime of the first wife, Shivcharan married for the second time. But after the marriage both the first wife and Shivcharan tortured the second wife as a result of which she ultimately committed suicide by burning herself. The incident occurred inside the house while Shivcharan and his first wife were in one room and the second wife was in the other. One of the questions which arose before the Supreme Court was whether the provisions under section 498-A can at all be attracted since the marriage with the second wife itself was null and void, the same having been performed during the lifetime of the first wife. In answer to this question the Supreme Court observed that there was considerable force in the argument of the learned counsel for the appellant that so far as conviction under section 498-A was concerned, inasmuch as the alleged marriage with the second wife, during the subsistence of a valid marriage with the first wife, was null and void, the same cannot be sustained. The Supreme Court

therefore set aside the conviction and sentence under section 498-A IPC. Going by this a decision, it is clear that the Supreme Court was of the view that as the second marriage was null and void, Shivcharan could not be regarded as a “husband” within the meaning ascribed to it under section 498-A IPC. Although the learned counsel for the respondent had, as noted above, made submissions to the effect that this was not a binding precedent, I don't see as to how this is would not constitute a binding precedent. The point in issue arose out of the facts of the case. It was specifically raised and specifically answered. The ratio of the decision is that a male partner to a null marriage cannot be covered by the expression “husband” as appearing in section 498-A IPC. It is another thing that the Supreme Court in the case of Shivcharan Lal Verma (supra) did not discuss this question with the same degree of elaboration as in the case of Reema Aggarwal (supra). But, this by itself cannot be construed to mean that in Shivcharan lal Verma (supra), the Supreme Court did not consider the entire scope and ambit of the provisions of section 498-a ipc. It must also be pointed out that the decision in Shivcharan Lal Verma (supra) has not been noticed in Reema Aggarwal (supra) although the latter decision is later in point of time. So, the decision in Reema Aggarwal (supra) has to be regarded as per incuriam. The second point that has to be kept in mind is that the decision in Shivcharan Lal Verma (supra) has been rendered by a bench of three honourable judges whereas the decision in the case of Reema Aggarwal (supra) is by a bench of two honourable judges. Clearly, the decision in Shivcharan Lal Verma (supra) would be binding. In this context it would be pertinent to note the observations of a Constitution Bench decision of the Supreme Court in the case of P. Ramachandra Rao v. State of Karnataka, (2002) 5 SCC 578 wherein the Supreme Court observed [at para 28]: —

2. Therefore the decision in Shivcharan Lal Verma (supra) will clearly take precedence over the decision in Reema Aggarwal (supra). That being the case, the arguments advanced by the learned counsel for the petitioners would have to be accepted that the provisions of section 498-a ipc would not be attracted inasmuch as the marriage between Mohit Gupta and Shalini was null and void and Mohit Gupta could not be construed as a “husband” for the purposes of section 498-A IPC. Clearly, therefore, the charge under section 498-A IPC cannot be framed and the Metropolitan Magistrate had correctly declined to frame any charges under section 498-A IPC. The learned additional Sessions Judge, however, fell into error in the relying upon Reema Aggarwal (supra), when the decision of the larger bench in Shivcharan Lal Verma (supra) to the contrary had also been cited by the counsel for the accused. One may be inclined to agree with the views expressed by a smaller bench of the Supreme Court but, judicial decorum and propriety

and the well settled rule with regard to precedents requires that the ratio of the larger bench be followed. Unfortunately, the learned Additional Sessions Judge lost sight of this.

JUDGMENT

Badar Durrez Ahmed, J.— This revision petition has been filed against the order dated 8.2.2005 passed by the learned Additional Sessions Judge, Delhi whereby he thought it fit that additional charges be framed for the offences under **section 498-A/313/342 IPC** against all the accused (except Vivek Gupta) in addition to the charge framed under section 417 IPC against Mohit Gupta and his father and under section 406 against Mohit Gupta and his mother. Being aggrieved by the additional charges framed against them, the accused have filed this revision petition. The order dated 8.2.2005, in turn, arose out of a revision petition filed by the complainant (Shalini) who was aggrieved by the order of the learned Metropolitan Magistrate dated 26.3.2004 by virtue of which, charges only under section 417 IPC against Mohit Gupta and his father and under section 406 IPC against Mohit Gupta and his mother, were framed. The learned Metropolitan Magistrate did not frame any charge under section 498-A IPC. Nor did he frame any charge under section 313 and 342 ipc against any of the accused.

2. The prosecution had filed the challan under **sections 498-A/406/506/342/417/34 IPC** against six accused persons which included Mohit Gupta, his father (Deshpal Gupta), mother (Sita Gupta), brother (Vineet Gupta), brother's wife (Sangeeta Gupta) and another relative Vivek Gupta. After examining the entire case presented by the prosecution the learned Metropolitan Magistrate was of the view that the the provisions of section 498-a ipc were not attracted in this case as the marriage between Mohit Gupta and Shalini (the complainant) was null and void. He was also of the view that there was no material/ evidence on record to frame a charge under section 313 IPC against the accused persons. He also observed that though the ingredients of the provisions under section 495 IPC were attracted, the court could not take cognizance of the offence except on a complaint by the complainant or her relatives in view of section 198 of the code of criminal procedure, 1973. Therefore, he refrained from framing any charges under section 495 IPC. The learned Metropolitan Magistrate, however, framed the charges under section 406 IPC against Mohit Gupta and his mother. It is further pointed out in the order dated 26.3.2004 that the offence under section 415 IPC which was punishable under section 417 IPC could also be framed against Mohit Gupta and his father (Deshpal Gupta). The learned Metropolitan Magistrate discharged the other accused.

3. The facts are that the complainant (Shalini) was earlier married to one Qaiser Khan sometime in 1989. Out of this marriage, the complainant had a daughter. However this marriage turned sour and it ended in a decree of divorce on 29.11.1999 Thereafter, the complainant (Shalini) entered into a marriage with accused Mohit Gupta on 2.12.1999 This marriage, it is alleged, was performed according to Hindu rites and ceremonies. It is the case of the complainant that when she got married to Mohit Gupta, she was unaware of the

fact that Mohit Gupta already had a living wife. The fact is that Mohit Gupta was also earlier married and, though he and his first wife had separated, their marriage had not been dissolved. This meant that on the date of the marriage between Mohit Gupta and Shalini, Mohit Gupta was a married man who had a living wife. In law, therefore, the marriage with Shalini was a nullity.

4. The first issue that has been raised by the learned counsel for the petitioners is that since the marriage between Shalini and Mohit Gupta was a nullity he could not be considered to be a 'husband' within the meaning of the expression as used in section 498- A IPC. Similarly, it was contended that the other accused could not also be regarded as the 'relatives of the husband'. The second point that was raised was that there was no material on record to enable the learned Additional Sessions Judge to frame a charge under section 313 IPC. The third point that was taken by the learned counsel for the petitioners was that the offence under section 406 IPC was also not made out in as much as there had been a settlement which had been arrived at on 9.10.2003 He placed reliance on a copy of the DD No. 16A to show that Shalini's father and Mohit Gupta's father had entered into a compromise in the presence of relatives. Shalini's father had also admitted in the compromise that he had no dispute with the accused nor was anything due from the accused persons. He also referred to the letter dated 9.10.2003 addressed to the S.H.O of police station Punjabi Bagh written by the complainant's father wherein he informed that he had entered into a compromise with the in-laws of his daughter and that after that day they had no concern with them and had settled their claims. On the strength of this compromise, the learned counsel for the petitioners contended that no material remained with the petitioners and therefore there were no claims pending against them. That being the case, a charge under section 406 IPC could not have been framed. Thus, the learned counsel for the petitioners submitted that the charge under section 498- A as well as the charge under section 313 IPC and the charge under section 406 IPC are liable to be cancelled as they are not attracted in the present case.

5. The learned counsel for the respondent however submitted that the ingredients of section 498- A were very much attracted inasmuch as even though the marriage between Mohit Gupta and the complainant was a nullity, they lived together as husband and wife. For all practical purposes they were husband and wife. He submitted that if in such a situation such a 'husband' committed atrocities upon the "wife" then it would be covered under section 498-A IPC. In support, he placed reliance upon the decision of the Supreme Court in the case of Reema Aggarwal v. Anupam: (2004) 3 SCC 199. He also sought to distinguish the case of the Supreme Court in the case of **Shivcharan Lal Verma v. State of MP**: 2002 (2) Crimes 177 (SC). The learned counsel for the respondent also referred to the decision of the Supreme Court in the case of **State of Orissa v. Mohd Illiyas**: (2006) 1 SCC 275 to demonstrate as to what constitutes a binding precedentl. He placed reliance on this decision to distinguish the case of Shivcharan Lal Verma by attempting to show that it did not constitute a binding precedent whereas the decision in the case of Reema Aggarwal (supra) was a clear binding precedent which the courts are bound to follow. As regards the the charge under section 313 IPC, the learned counsel for the respondent submitted that the

same was clearly made out inasmuch as the accused had compelled and forced the complainant to undergo an abortion when she was about five months (19 weeks) pregnant. He narrated the manner in which the abortion was forcibly carried out as per the case of the complainant. He also submitted that the complainant has denied her signatures on the consent forms and she has also denied the fact that she voluntarily entered into the arrangement for medical termination of her pregnancy. He submitted that the complainant was on anti-depressants and as per her story she was in an unconscious state when she was taken for the termination of her pregnancy. He submitted that the termination of her pregnancy was obviously not in the benefit of the child which was to be born. Nor was it for the benefit of the complainant. Therefore, clearly, the offence under section 313 was made out. He further submitted that under the Medical Termination of Pregnancy Act, 1971, where the length of pregnancy exceeds 12 weeks but does not exceed 20 weeks, the opinion of two registered medical practitioners has to be taken and only if such opinion, formed in good faith, leads to the conclusion that the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health or there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped, can the pregnancy be medically terminated by a registered medical practitioner. He submits that in the present case although the pregnancy was of a duration of 19 weeks the opinion of two doctors was not taken. All these factors, according to the learned counsel for the respondent, go to show that the termination of pregnancy was not in accordance with law and definitely not with the consent of the complainant. That being the case the charge under section 313 was clearly made out. The learned counsel for the respondent then submitted that the charge under section 406 IPC was also made out inasmuch as there was clear entrustment as per the allegations. He further submitted that the impugned order does not call for any interference.

6. The learned counsel for the state was also heard and he supported the impugned order. By way of supplement he submitted that at the relevant time the offence under section 406 was compoundable only up to Rs 250. The settlement of 9.10.2003, is therefore of no consequence inasmuch as the amount involved is far in excess of Rs 250/-. Thus, he submitted, the argument of section 406 not being made out in view of the settlement of 9.10.2003, does not survive.

7. The first question that arises is whether Mohit Gupta can be regarded as a “husband” for the purpose of section 498-A IPC. In Reema Aggarwal (supra), which was a decision of a two-judge bench, the Supreme Court held that the absence of a definition of “husband” specifically including a person who contracts a marriage ostensibly and cohabits with a woman in the purported exercise of his role and status as a “husband”, is no ground to exclude him from the purview of section 304b or 498-a ipc. Thus, in the view of the decision in Reema Aggarwal (supra), Mohit Gupta would clearly fall within the expression “husband” used in section 498-A IPC. Consequently, the fact of his marriage with the complainant being a nullity would be of no consequence because, admittedly, they did live together as husband and wife. Even the rituals and ceremonies of a marriage were

performed. It is another thing that the marriage was void ab initio. The fact remains that Mohit Gupta and Shalini lived together as husband and wife. Therefore, apparently, in view of the decision of the Supreme Court in Reema Aggarwal (supra) the offence under section 498-A would clearly be made out. It would be interesting to note the reasoning adopted by the Supreme Court in Reema Aggarwal (supra) for including such ostensible "husbands" within the sweep and ambit of section 498-A. The Supreme Court observed:—

"11. The question as to who would be covered by the expression "husband" for attracting Section 498-A does present problems. Etymologically, in terms of the definitions of "husband" and "marriage" as given in the various law lexicons and dictionaries - the existence of a valid marriage may appear to be a sine qua non for applying a penal provision. In **Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav** a woman claimed maintenance under Section 125 of the Code of Criminal Procedure, 1973 (in short "CrPC"). This Court applied the provision of the marriage act and pointed out that same was a law which held the field after 1955, when it was enacted and Section 5 lays down that for a lawful marriage the necessary condition that neither party should have a spouse living at the time of the marriage is essential and marriage in contravention of this condition therefore is null and void. The concept of marriage to constitute the relationship of "husband" and "wife" may require strict interpretation where claims for civil rights, right to property etc. may follow or flow and a liberal approach and different perception cannot be an anathema when the question of curbing a social evil is concerned."

[at page 213] "… Even then the purpose for which Sections 498-A and 304-B IPC and Section 113-B of the Indian Evidence Act, 1872 (for short "the Evidence Act") were introduced, cannot be lost sight of. Legislation enacted with some policy to curb and alleviate some public evil rampant in society and effectuate a definite public purpose or benefit positively requires to be interpreted with a certain element of realism too and not merely pedantically or hypertechnically. The obvious objective was to prevent harassment to a woman who enters into a marital relationship with a person and later on, becomes a victim of the greed for money. Can a person who enters into a marital arrangement be allowed to take shelter behind a smokescreen to contend that since there was no valid marriage, the question of dowry does not arise? Such legalistic niceties would destroy the purpose of the provisions. Such hairsplitting legalistic approach would encourage harassment to a woman over demand of money. The nomenclature "dowry" does not have any magic charm written over it. It is just a label given to demand of money in relation to marital relationship. The legislative intent is clear from the fact that it is not only the husband but also his relations who are covered by Section 498-A. The legislature has taken care of children born from invalid marriages. **Section 16 of the Marriage Act** deals with legitimacy of children of void and voidable marriages. Can it be said that the legislature which was conscious of the social stigma attached to children of void and voidable marriages closed its eyes to the plight of a woman who unknowingly or unconscious of the legal consequences entered into the marital relationship? If such restricted meaning is given, it would not further the legislative intent. On the contrary, it would be against the concern shown by the legislature for avoiding harassment to a woman over demand of

money in relation to marriages. The first exception to Section 494 has also some relevance. According to it, the offence of bigamy will not apply to “any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction”. It would be appropriate to construe the expression “husband” to cover a person who enters into marital relationship and under the colour of such proclaimed or feigned status of husband subjects the woman concerned to cruelty or coerces her in any manner or for any of the purposes enumerated in the relevant **provisions - Sections 304-B/498-A,** whatever be the legitimacy of the marriage itself for the limited purpose of **Sections 498-A and 304-B IPC.** Such an interpretation, known and recognized as purposive construction has to come into play in a case of this nature. The absence of a definition of “husband” to specifically include such persons who contract marriages ostensibly and cohabit with such woman, in the purported exercise of their role and status as “husband” is no ground to exclude them from the purview of **Section 304-B or 498-A IPC,** viewed in the context of the very object and aim of the legislations introducing those provisions.”

8. These are undoubtedly strong words and clearly show that a person who ostensibly contracts a marriage with a woman and lives with her as husband and wife would also be covered within the meaning of the expression “husband” used in section 498-A IPC. But the matter does not stop here. The Supreme Court, in the case of Shivcharan Lal Verma (supra), which is a decision of a three-judge bench, was of the contrary view. The facts in that case were that during the lifetime of the first wife, Shivcharan married for the second time. But after the marriage both the first wife and Shivcharan tortured the second wife as a result of which she ultimately committed suicide by burning herself. The incident occurred inside the house while Shivcharan and his first wife were in one room and the second wife was in the other. One of the questions which arose before the Supreme Court was whether the provisions under section 498-A can at all be attracted since the marriage with the second wife itself was null and void, the same having been performed during the lifetime of the first wife. In answer to this question the Supreme Court observed that there was considerable force in the argument of the learned counsel for the appellant that so far as conviction under section 498-A was concerned, inasmuch as the alleged marriage with the second wife, during the subsistence of a valid marriage with the first wife, was null and void, the same cannot be sustained. The Supreme Court therefore set aside the conviction and sentence under section 498- A IPC. Going by this a decision, it is clear that the Supreme Court was of the view that as the second marriage was null and void, Shivcharan could not be regarded as a “husband” within the meaning ascribed to it under section 498-A IPC. Although the learned counsel for the respondent had, as noted above, made submissions to the effect that this was not a binding precedent, I don't see as to how this is would not constitute a binding precedent. The point in issue arose out of the facts of the case. It was specifically raised and specifically answered. The ratio of the decision is that a male partner to a null marriage cannot be covered by the expression “husband” as appearing in section 498-A IPC. It is another thing that the Supreme Court in the case of Shivcharan Lal Verma (supra) did not discuss this question with the same degree of elaboration as in the case of Reema Aggarwal (supra). But, this by itself cannot be construed to mean that in Shivcharan lal Verma (supra), the Supreme Court did not

consider the entire scope and ambit of the provisions of section 498-a ipc. It must also be pointed out that the decision in Shivcharan Lal Verma (supra) has not been noticed in Reema Aggarwal (supra) although the latter decision is later in point of time. So, the decision in Reema Aggarwal (supra) has to be regarded as per incuriam. The second point that has to be kept in mind is that the decision in Shivcharan Lal Verma (supra) has been rendered by a bench of three honourable judges whereas the decision in the case of Reema Aggarwal (supra) is by a bench of two honourable judges. Clearly, the decision in Shivcharan Lal Verma (supra) would be binding. In this context it would be pertinent to note the observations of a Constitution Bench decision of the Supreme Court in the case of **P. Ramachandra Rao v. State of Karnataka**, (**2002) 5 SCC 578** wherein the Supreme Court observed [at para 28]:—

“The well settled principle of precedents which has crystallised into a rule of law is that the bench of lesser strength is bound by the view expressed by a bench of larger strength and cannot take a view in departure or in conflict therefrom.”

Therefore the decision in Shivcharan Lal Verma (supra) will clearly take precedence over the decision in Reema Aggarwal (supra). That being the case, the arguments advanced by the learned counsel for the petitioners would have to be accepted that the provisions of section 498-a ipc would not be attracted inasmuch as the marriage between Mohit Gupta and Shalini was null and void and Mohit Gupta could not be construed as a “husband” for the purposes of section 498-A IPC. Clearly, therefore, the charge under section 498-A IPC cannot be framed and the Metropolitan Magistrate had correctly declined to frame any charges under section 498-A IPC. The learned additional Sessions Judge, however, fell into error in the relying upon Reema Aggarwal (supra), when the decision of the larger bench in Shivcharan Lal Verma (supra) to the contrary had also been cited by the counsel for the accused. One may be inclined to agree with the views expressed by a smaller bench of the Supreme Court but, judicial decorum and propriety and the well settled rule with regard to precedents requires that the ratio of the larger bench be followed. Unfortunately, the learned Additional Sessions Judge lost sight of this.

9. I now come to the second question and that pertains to the charge under section 313 IPC. It would be instructive to note the views of the learned Metropolitan Magistrate as well as the learned additional Sessions Judge on this aspect of the matter. The Metropolitan Magistrate in his orders on charge had indicated as under:—

“The complainant has also levelled the serious allegations under section 313 IPC against all the accused persons. It is alleged that all the accused persons had threatened her on various time to get child aborted in her womb. It is also been alleged that she was also forcibly got aborted on 29/8/2000 by her mother- in- law and sister- in- law (Jethani). However, during the investigation sufficient evidence has come on record to establish that the complainant herself along with her mother had visited the doctor. The statement of the concerned Dr Narinder Bhatta has also been recorded who has formally stated that the complainant herself had come for MTP. During the investigation consent form for MTP has also been collected which bears the signatures of the complainant and her mother.

Thus, there is no evidence on record to frame the charge under section 313 IPC against the accused persons."

Taking a contrary view, the learned additional Sessions Judge held as under:—

"Similarly regarding the availability of the material for framing of the charge under section 313 IPC it may be seen that even in the statement under section 161 CrPC of Dr Bhatta recorded during investigation it has been pointed out that the termination of the pregnancy was a risk to the life of the complainant. At the time of termination complainant was five months pregnant. According to her, her husband and his family members forced her to abort. Apparently there seems to be no reason of termination of pregnancy by her own at such an advance stage. On the other hand there appears to be every reason [for] accused to force her for abortion as husband was still not able to succeed [to get] his first marriage dissolved and the delivery of the child from the second marriage could add more woes to his difficulties.

9. The trial court has discharged the accused under section 313 IPC for the reason that the complainant of her own along with her mother went to the clinic of Dr Bhatta. The question [whether] termination of pregnancy was voluntarily act of the complainant or was under force needs evidence for ascertainment and prima facie looking to the period of pregnancy, to the risk of the life of the complainant and absence of any reason with the complainant to abort there was sufficient material to proceed against the accused on the allegations of the complainant that abortion was got done under force of the accused."

Looking at the observations of the courts below I'm inclined to agree with those of the learned additional Sessions Judge. As pointed out by the learned counsel for the respondent, the respondent has denied her signatures on the consent form. She has also alleged that she did not consent to the abortion. Furthermore, there are allegations that she was taken for abortion by the "in-laws", when she was in an unconscious state. Of course there is the certificate of the doctor that the complainant (accompanied by her mother) had come and had voluntarily undertaken the medical termination of pregnancy. But, this is denied by the complainant and her allegations are to the contrary. Therefore, I am in agreement with the learned counsel for the respondent as well as the observations of the learned Additional Sessions Judge that, whether the offence under section 313 IPC is established or not would be a question of evidence. At the stage of framing of a charge under section 313 IPC all that is to be seen is that there are allegations which go to constitute the offence and that there is sufficient material on record to give rise to a grave suspicion with regard to the commission of such an offence. There are two or three factors which come to mind straight away. Firstly there was no apparent reason for the complainant to have gone in for medical termination of pregnancy. Secondly, the termination of pregnancy itself was a risk to the complainant because the pregnancy was at an advanced stage of almost 5 months. Thirdly, it would be in the interests of the accused to have the pregnancy terminated as that would "lighten the burden" on them. Of course, all this has to be proved by the prosecution beyond reasonable doubt before the accused can be convicted of the offence. No doubt, there is material on record which is apparently

in favour of the accused. However, in the context of the facts of this case, there is. also material against them. The truth can only be ascertained in trial. Therefore, at this stage, I feel that a charge under section 313 IPC can definitely be framed and has rightly been framed by the learned additional Sessions Judge.

10. I now come to the third and final issue that arises in this revision petition and that is with regard to the charge under section 406 IPC. Although the learned counsel for the petitioners raised this issue before this court, I find that when the learned Metropolitan Magistrate had passed his order of framing charges, none of the accused preferred a revision against the charges framed by him. The charges framed by the learned Metropolitan Magistrate included the charge under section 406 IPC against Mohit Gupta and his mother Sita Gupta. That being the case, it is, in my view, not open to the learned counsel for the petitioners to raise this issue now. In any event, I feel that the charges have been rightly framed under section 406 IPC by both the courts below. The settlement that is said to have been arrived at between the parties does not come in the way of framing of charges. As rightly pointed out by the learned Metropolitan Magistrate, the original compromise was not placed on record and in any event the complainant has disputed the said compromise. Furthermore, there are specific averments in the complaint made by the complainant that her jewellery was in possession of Sita Gupta and all the cash was in the possession of Mohit Gupta and Sita Gupta. Therefore, agreeing with the courts below I think that a prima facie case under section 406 IPC was made out and the charge has been rightly framed against Mohit Gupta and his mother Sita Gupta.

11. In these circumstances this revision petition is a partly allowed in the sense that the charge under section 498- A against the petitioners does not arise and stands cancelled. However, the other charges, as framed by the courts below, remain the same. This means that the charge under section 313 is to be framed against the Mohit Gupta and Sita Gupta. The charge under section 406 IPC is to be framed in respect of Mohit Gupta and his mother Sita Gupta. The charge under section 417 IPC is to be framed in respect of Mohit Gupta and his father. There is no question of any charge under section 342 IPC. As indicated in the impugned order itself, there are no allegations of wrongful confinement of the complainant in the house. Therefore, the charge under section 342 IPC is to be deleted. It appears that a charge under section 495 IPC is also made out and the same should also be framed insofar as Mohit Gupta is concerned particularly as the ingredients of the offence have already been alleged in the complaint made by Shalini, a person aggrieved. Vineet Gupta and his wife Sangeeta Gupta are discharged. With these directions this revision petition stands disposed of.