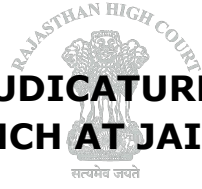




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 4161/2023

Smt. Indra Devi W/o (Late) Shri Maan Singh, Aged About 56 Years, R/o Village Nagla Khangar (Ubaar), Tehsil Kumher, District Bharatpur. (Raj.).

-----Petitioner

Versus

1. State of Rajasthan, Through Public Prosecutor.
2. Smt. Sarita W/o Shri Lal Singh, D/o Shri Sevaram, R/o Ganesh Nagar, Sewar Road, P.s. Sewar, District Bharatpur (Raj.), Presently Posted As Physical Education Teacher, Government Higher Secondary School Naveen, Kumher, Tehsil Kumher, District Bharatpur (Raj.).

-----Respondents

For Petitioner(s) : Mr. Anurag Sharma
Mr. Akshat Sharma
Mr. Anoop Meena

For Respondent(s) : Mr. Jitendra Singh Rathore, PP
Mr. Chitransh Saxena
Mr. Dharmendra Kumar
Mr. Ajay Gadhwal
Mr. Sushil Yadav
Mr. Tanay Choudhary
Mr. Aval Yadav for
Mr. Kapil Gupta

JUSTICE ANOOP KUMAR DHAND

Order

01/05/2026

1. By way of filing the instant petition, a challenge has been led to the impugned order dated 23.01.2023, passed by the learned Judicial Magistrate No.3, Bharatpur, by which cognizance has been taken against the petitioner along with co-accused persons under Sections 498A, 406, 323 IPC and 4/6 of Dowry Prohibition Act, 1961.





2. Aggrieved by the aforesaid order, a revision petition was submitted by the petitioner before the Court of the Sessions Judge, Bharatpur, however, the same was rejected vide impugned order dated 26.06.2023.

3. Learned counsel for the petitioner submits that the marriage of the complainant-respondent No.2 (hereinafter referred to as 'complainant') was solemnized with the brother-in-law of the petitioner, i.e. Lal Singh on 19.02.2020. He further submits that at the time of solemnization of their marriage, both Lal Singh and the complainant were in government service, working as teachers and they were posted at different places. On account of matrimonial discord between the husband and wife, a divorce petition was submitted by the husband-Lal Singh against the complainant on 16.08.2012. In counterblast to registration of the aforesaid divorce petition the FIR No.229/2012 was registered by the complainant against the husband-Lal Singh and his family members. After investigation in the matter, police submitted charge-sheet only against the husband-Lal Singh and involvement of the petitioner and other co-accused persons was not found to be proved. Hence, Final Report (Negative) was submitted against them.

4. Learned counsel further submits that the trial proceeded against the husband-Lal Singh and during these proceedings, an application under Section 319 Cr.P.C. was submitted by the complainant for taking cognizance against the petitioner along with and her husband and in-laws. The aforesaid application was initially rejected by the Court of Judicial Magistrate, No.3, Bharatpur vide order dated 01.12.2018, but the Revisional Court,





vide order dated 26.06.2019, remanded the matter back for deciding the same afresh. Thereafter, the application under Section 319 Cr.P.C. was heard again and now cognizance has been taken against the petitioner and co-accused Durg Singh and Rajpali under Sections 498A, 406, 323 IPC read with Section 4/6 of Dowry Prohibition Act, 1961.



5. Learned counsel further submits that the petitioner is a widowed lady and she has no concern whatsoever, with the domestic affairs of the complainant and her husband-lal Singh. She has been implicated as an accused along with other co-accused i.e. Rajapali and Durg Singh on the basis of general, vague and omnibus allegations. He further submits that the co-accused Rajapali and Durg Singh have expired during pendency of the proceedings and now the petitioner alone has been left along with co-accused husband-Lal Singh to face trial. He further submits that the petitioner, being sister-in-law (*Jethani*) of the complainant, has no concern with her matrimonial affairs, but she has been falsely implicated as an accused to harass her.

6. Learned counsel further submits that in matrimonial disputes between husband and wife, it has become a tendency to lodge false cases against the parent-in-law and other family members. In support of his contentions, he placed reliance upon the judgment passed by the Hon'ble Apex Court in case of **Preeti Gupta and Anr. Vs. State of Jharkhand and Anr.** reported in **(2010) 7 SCC 667.**

7. *Per contra* learned Public Prosecutor as well as the counsel appearing on behalf of the complainant opposed the arguments raised by the counsel for the petitioner and submitted that a



prima facie case is made to proceed against the petitioner since allegations of demand of dowry and harassment have been levelled by complainant and her mother against the petitioner. It was further submitted that the Court below has not committed any error in taking cognizance against the petitioner. Hence, under these circumstances, interference of this Court is not warranted and the instant petition is liable to be rejected.

8. Heard and considered the submissions made at the Bar and perused the material available on the record.

9. Perusal of the record indicates that the marriage of the complainant was solemnized with Lal Singh, who is brother-in-law (*Devar*) of the petitioner, on 19.02.2000. This fact has come on record that at the time of marriage, both husband and wife were living at different places as they were employed in government service and were posted in different schools. It appears that on account of matrimonial discord between the couple, divorce petition has been filed by the husband-Lal Singh and a criminal case has been filed by the complainant. This fact is not in dispute that in the FIR, the complainant has levelled allegations of demand of dowry and harassment against the husband-Lal Singh and his parent along with the petitioner and her husband, who are *Jeth* and *Jethani* of the complainant. This fact is also not in dispute that after thorough investigation in the matter from all the four corners, involvement of the rest of the accused except the husband-Lal Singh was not found to be proved and therefore, charge-sheet was submitted only against the husband-Lal Singh. This fact is also not in dispute that thereafter the trial proceeded and statements of certain witnesses were also recorded. AT this





stage, an application under Section 319 Cr.P.C. was submitted by the complainant for taking cognizance against rest of the accused persons, who were not charge-sheeted. This fact is also not in dispute that the said application submitted by the complainant was rejected by the Judicial Magistrate No.3, Bharatpur, vide order dated 01.12.2018 and the learned Magistrate refused to take cognizance against rest of the accused persons, who were not charge-sheeted. This fact is also not in dispute that when the aforesaid order was assailed by the complainant before the Revisional Court by way of filing revision petition and the same was allowed vide order dated 26.06.2019 and the matter was remanded back to the learned Magistrate for deciding the application afresh.

10. This time round, the learned Magistrate, while exercising its power contained under Section 319 Cr.P.C., has taken cognizance against the petitioner and parents-in-law of the complainant vide impugned order dated 23.01.2023. This fact is also not in dispute that during pendency of these proceedings, the husband of the petitioner as well as parents-in-law of the petitioner and the complainant have expired.

11. This fact is also not in dispute that the complainant and her husband-Lal Singh, who is brother-in-law of the petitioner, are in government service and they are residing at the place of their posting while the petitioner, who is a widow lady, is residing at her matrimonial home. Hon'ble Apex Court in the case of **Preeti Gupta(Supra)** has observed and held in most of the complaints under Section 498A IPC, in the heat of the moment over trivial issues, the complainant with oblique motives duplicates all family





members of the husband and even person who are in remote relation to the husband. The petitioner, being sister-in-law of the complainant i.e. *Jethani*, has no concern whatsoever, with the domestic affairs of the complainant and her husband. She would not benefit from any demand of dowry, if any, made by the husband or in-laws with the complainant who is sister-in-law. (*Devrani*) of the petitioner.

12. Looking to the fact that no specific overt act has been assigned to the petitioner to show exactly in what manner she abused and harassed the complainant for demand of dowry, no *prima facie* case is made out against her. It is somewhat unlikely that the petitioner would have demanded dowry or harassed the complainant. She has nothing to gain from the cash or articles of dowry alleged to have been given to the husband and parents-in-law of the complainant. Ordinarily in matrimonial disputes, the women is subjected to harassment by husband or parents-in-law. Unless and until, specific allegations are made against such other persons. In the instant case common, general, omnibus and vague allegations have been levelled against the petitioner by the complainant and no specific overt act or specific allegations have been levelled against the petitioner to show exactly in what manner, the petitioner subjected the complainant to any kind of cruelty or harassment.

13. For the reasons stated hereinabove, this Court finds no *prima facie* case to proceed against the petitioner her for the offences for which cognizance has been taken against her. The impugned order dated 23.01.2023, passed by learned Judicial Magistrate No.3, Bharatpur, stands quashed and set aside. In



consequence thereof, the order of Revisional Court dated 26.06.2023 also stands quashed and set aside.

14. With the aforesaid observations, the instant petition stands allowed. Stay application and all pending application(s), if any, shall stand disposed of.

(ANOOP KUMAR DHAND),J

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