



2024:DHC:2068



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12.03.2024

+ CRL.M.C. 4616/2022 & CRL.M.A. 18749/2022
RAJESH AGGARWAL & ANR.

..... Petitioners

Through: Mr.Manoj Taneja & Mr.Vishal
Khadia, Advs.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Shoaib Haider, APP.
SI Ravi Beniwal, PS
Govindpuri.
SI Saurabh Parasan, PS Malvia
Nagar.
Mr.K.P. Toms & Mr.Piyush
Mehra, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.'), praying for the quashing of FIR No. 0451/2017 registered at Police Station: Govindpuri, New Delhi, under Sections 498A/406/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), against, *inter alia*, the petitioners herein.



copy of this complaint is annexed. However, the learned counsel for the petitioners submits that in the entire Trial Court record, a copy of this alleged complaint is not found and has not been filed. This is not disputed by the learned APP and/or the learned counsel for the respondent no. 2.

5. The above FIR has been registered on a complaint dated 13.07.2017 filed by respondent no.2, that is, after 23 years of the marriage; the incident dated 18.07.2007 was also about 10 years before the complaint was filed.

Submissions of the learned counsel for the petitioners:

6. The learned counsel for the petitioners submits that before the Crime Against Women Cell (CAW), where the original complaint was filed by respondent no.2, the petitioners were never called for any investigation/preliminary inquiry. Even when the FIR was registered on 09.11.2017, the petitioners were called only once by the Investigating Officer ('IO'), and in their statement, they denied having any role in the alleged offence.

7. He submits that the petitioners have always been residing separately from Mr. Yogesh Gupta and the complainant, and they have been dragged into this matter only because they are family members of Yogesh Gupta.

8. He further submits that in June 2017, the mother-in-law of the complainant had filed a civil suit seeking restraint on the complainant with respect to the property on which the mother-in-law claims a title. On 14.06.2017, the concerned Court had



complainant to implicate the relatives of the husband in matrimonial disputes, by observing as under:

“10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the in-laws Appellants are in the nature of general omnibus allegations and therefore liable to be quashed?”

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17. The abovementioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

18. The Supreme Court also placed reliance on the precedents on this issue in ***Rajesh Sharma & Ors. v. State of U.P. & Anr.***, (2018) 10 SCC 472; ***Arnesh Kumar v. State of Bihar & Anr.***, (2014) 8 SCC 273; ***Preeti Gupta & Anr. v. State of Jharkhand & Anr.***, (2010) 7 SCC 667; ***Geeta Mehrotra & Anr v. State of Uttar Pradesh & Anr.***, (2012) 10 SCC 741, and ***K. Subba Rao v. State of Telangana***, (2018) 14 SCC 452 and held that in the absence of any specific and distinct allegations



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nephew of the petitioner no.1, that is, Mr.Yogesh Kr. Gupta on 23.04.1994. The complaint has been filed on 13.07.2017, that is, after 23 years of marriage. Mostly general and vague allegations have been made against the family members of the husband, not only against the mother-in-law but also against the petitioners, who are the maternal uncle and aunt of the husband. Allegations have also been made against the other maternal uncle and his wife, thereby naming the entire family of the husband.

21. As clever case of drafting, specific allegations have been made dating back to around 1994-95 against Mr.Vimal Aggarwal, the other maternal uncle of the husband of the respondent no.2 and his wife Ms.Anu Aggarwal. Specific allegations against the petitioners dating back to 18.07.2007 have been made. As noted hereinabove, the complaint has been filed almost 10 years thereafter.

22. Though the respondent no.2 states that regarding the incident on 18.07.2007, she had made a complaint to the police at Police Station Kalkaji on 20.07.2007, copy thereof is stated to be attached to the complaint, the submission of the learned counsel for the petitioner that no such copy has been found in the learned Trial Court Record, has gone unrebutted. The learned counsel for the respondent no.2 has also not produced a copy of any such complaint before this Court.

23. In *Mahmood Ali and Others* (Supra), the Supreme Court emphasised that the High Court owes a duty to look into the

