

**IN THE COURT OF SH. DEVENDER KUMAR, ADDITIONAL SESSIONS
JUDGE-02 (NE), KARKARDOOMA COURTS, DELHI.**

Crl. Revision No. 89/2022
FIR No.690/2015
U/s. 498A/342/506/34 IPC
PS: Karawal Nagar

1. Sh. Raj Kumar

S/o Sh. Shyam Narain

2. Sh. Shyam Narian

S/o Late Purshottam

3. Smt. Sushila Devi

W/o.Sh. Shyam Narian
All R/o. H. No.9, Raj Bagh Colony,
Sahibabad, Ghaziabad, Uttar Pradesh

4. Ms. Sandhya

W/o. Sh. Kundan

5. Sh. Kundan

S/o. Sh. Shri Nath
Both R/o H. No. B-39A, Vijay Enclave,
Dabri More, Palam, New Delhi.

6. Ms.Chhaya

D/o. Sh Shyam Narain
R/o. H. No.9, Raj Bagh Colony,
Sahibabad, Ghaziabad, Uttar Pradesh

7. Sh. Vinod Kumar

S/o. Late Sh. Ghisi Ram

R/o. Mohalla Kaluapura, Visheswar Ganj,
Varanasi, Uttar Pradesh

...Revisionists

Versus

The State (Govt. Of NCT of Delhi)

...Respondent

Date of assignment	:	20.05.2022
Date of Arguments	:	01.08.2022
Date of Pronouncement	:	31.08.2022

ORDER:

1. Vide this order, I shall dispose of this Revision Petition filed on behalf of accused persons against framing of charges under sections 498A/342/506/34 IPC in FIR No.690/2015, U/s. 498A/342/506/34 IPC, PS Karawal Nagar vide impugned order dated 10/05/2019.

2. Ld. Counsel for the revisionists has argued that all the revisionists are husband and other in-laws of the complainant i.e. father in-law, mother-in-law, sister-in-law, brother-in-law and maternal father-in-law and have been falsely implicated in this case. It is further argued that the revisionists No. 4, 5 and 7 were residing separately during the stay of the complainant at her matrimonial home, whereas revisionist No.6 was staying at hostel at Allahabad, UP and was

pursuing her M. Tech and visited Delhi just to attend the marriage of the complainant with revisionist No.1. It is further argued that train tickets of the respondent no. 6 are already on record to prove this fact. It is further argued that the abovesaid revisionists were not residing with the complainant at the relevant time or on the alleged dates of incidents, due to no charge is made out against them. It is further argued that the marriage between revisionist No.1 and complainant Jyoti was solemnized on 13.11.2013 in a very simple manner and without any dowry or dowry demands as it was love-cum-arrange marriage, but still allegations of dowry demands have been made in very vague manner. It is further argued that the revisionists treated the complainant with love and affection, but still she has lodged this false FIR against them with vague, baseless and general allegations and that too without any supporting evidence. It is further argued that the complainant used to send money to her family members and her brother also borrowed Rs.1,53,000/- from respondent No.1 on different occasions and when revisionist No.1 demanded this amount back from her brother, she got annoyed and left her matrimonial home on 09.06.2014 without any reason. It is further argued that the respondent No.1 also made repeated attempts to bring her back to join her matrimonial home, but she along with her family members manhandled and assaulted him and did not join her company. It is further argued that respondent No.1 sent letter dated 30.09.2014 to the father of the complainant thereby asking him to ask his daughter to join her matrimonial home, which was also followed by subsequent repeated letters / complaints and legal notice also, but she failed to join her matrimonial home. Contrary to it, she made a written complaint dated 08.01.2015 against the revisionists with CAW Cell with false, fabricated and vague allegations against her in-laws. It is further argued that the police have blindly lodged this FIR on the basis of manipulated facts of the complainant and have charge-sheeted all family members without due

verification of allegations. It is further argued that Ld. Trial court has also framed charges against the revisionists vide impugned order dated 10/05/2019 despite having no prima facie charges against them. It is further argued that the revisionists have challenged this framing of charges against them and this Revision Petition may be allowed.

3. Ld. Counsel for revisionists has further argued that Ld. Trial Court has failed to appreciate that the complainant has made allegations against the revisionists with a motive to extort money of Rs. 5 Lacs in lieu of joining of her matrimonial home, otherwise legal notice served by the revisionist has proved that she was residing with her family members on the alleged dates when she was allegedly harassed by the revisionists. It is further argued that the complaint dated 08.01.2005, on which basis this FIR has been lodged, is vague and without any basis or specific averments like dates, month and year etc., due to general allegations made in FIR are not sufficient to make out a prima facie case against accused. It is further argued that the complainant had left her matrimonial home on 09.06.2014 and thereafter, she was not present at her matrimonial home, so allegations after 09.06.2014 are fabricated and not reliable. It is further argued that now a days it is a common trend that all family members of husband are implicated in a false case deliberately and without any substance and this case is an example of such allegations. It is further argued that Ld. Trial Court has failed to appreciate that the revisionist Nos. 4 to 7 were not residing with the complainant and just attended her marriage and their presence at the matrimonial home was occasional due to charges framed against them vide impugned order are liable to be set aside. In support of submissions, Ld. Counsel for revisionists has relied upon a case titled ***Kahkashan Kausar @ Sonam & Ors vs. State of Bihar, Criminal Appeal No. 195/2022.***

4. On the other hand, Ld. Addl. PP for State has strongly opposed this Revision Petition on the ground that it is settled proposition of law that the court has to see just a prima facie case on merit to frame charges and a revolving inquiry to determine the conviction of accused on the basis of allegations is not permissible. It is further argued that the charges may be framed against the accused even in doubtful cases and accused cannot be discharged, until and unless it is a case of grave suspicion with doubtful involvement of the accused. It is further argued that this FIR lodged by the complainant has been duly supported by the statements of the complainant as well as her family members and revision petition against framing of charges is not maintainable. It is further argued that the charges have already been framed against revisionists and they may prove their innocence during trial, but they cannot be discharged on the basis of their defense, which is a matter of trial, due to this Revision Petition is liable to be dismissed.

5. I have heard the arguments and perused the record. This revision petition has been preferred against the impugned order dated 10/05/2019, but has been filed on 20/05/2022. However, limitation to file all types of litigations was exempted by the Hon'ble Supreme Court in case titled ***In Re: Cognizance for extension of Limitation w.e.f. 15/03/2020 upto 28/02/2022***, due this revision petition is within limitation.

6. This case is triable by the court of Ld. MM and parameters of framing of charges/ discharge by Ld. MM have provided under sections 239 and 240 CrPC. Both the relevant sections are as under:

Section - 239. *When accused shall be discharged. If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing*

Section- 240. Framing of charge. *(1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.*

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

7. Perusal of section 239 CrPC would show that if a magistrate comes to the conclusion after perusal of the police report as well as supporting documents that charges against the accused are groundless, then he will discharge the accused. However, if the magistrate has ground to presume that the accused has committed the offence, then he may frame charges against the accused. In fact, to come to the conclusion of a prima facie case, Ld. MM has to see if there are sufficient grounds for proceeding against the accused and strict standard of proof is not required. If there is a strong suspicion which leads the court to think that there is ground for presuming that the accused had committed the offence, then the court should proceed with the trial. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. However, while discharging the accused, the Judge concerned has to consider the record of the case as well as the documents placed therewith, and if he is so convinced after hearing both the parties that there is no sufficient ground

to proceed against the accused, he shall discharge the accused, but Ld. MM has to record reasons for doing the same. Admittedly, defence of the accused has nothing to do with framing of charges as it is a matter of trial. The abovesaid legal proposition may be seen in cases titled ***Bhawna Bai v. Ghanshyam*, (2020) 2 SCC 217 and *Nallapareddy Sridhar Reddy v. State of A.P.*, (2020) 12 SCC 467.**

8. Now the facts of this case have to be seen. This case is pertaining to the matrimonial dispute and Ld. Trial Court has framed charges against all family members including remote relatives like revisionist No.7, who is maternal father-in-law of the complainant. Even married sister-in-law and brother-in-law of the complainant have also been implicated, whereas they were residing separately at the time of her marriage with revisionist No.1 or during her stay at her matrimonial home. It is further argued that the separate residences of the revisionists are also mentioned in this charge sheet itself. Ld. Counsel for the revisionists has vehemently argued that the allegations against the revisionists are vague and general in nature to determine a prima facie case.

9. Admittedly, main charge against all accused persons is under section 498A/34 IPC, which is related to a cruelty to a married women by her husband and in-laws. Section 498A covers both types of cruelties i.e. mental and physical. However, such cruelty must be consistent with specific aim and object to harass a woman. The object of 498A IPC has been examined by the Hon'ble Supreme Court in case titled ***Rajesh Sharma & Ors Vs. State of U.P & Ors.*, (2018) 10 SCC 472** and *observed that the object of section 498A IPC was punishing cruelty at the hands of husband and his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in*

*the statement of Objects and Reasons of the Act. However, most of such complaints are filed in the heat of the moment over trivial issues and many of such complaints are not bonafide. In **Arnesh Kumar Vs. State of Bihar & Anr, (2014) 8 SCC273**, it is observed that;*

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498AIPC was introduced with a vowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested.”

10. It is further observed in **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr, (2010) 7 SCC 667** that unfortunately, at the time of filing of the complaints the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints, the tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities. The allegations of harassment of husband's close relations into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the

place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

11. It is further observed in ***Geeta Mahrotra & Anr. Vs. State of UP & Anr., (2012) 10 SCC741 and G. V. Rao Vs. L. H.V. Prasad &Ors, (2000) 3 SCC 693*** that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped in the matrimonial litigation and same were quashed in those cases.

12. After going through the above said judgments, the Hon'ble Supreme Court of India has held in case titled ***Kahkashan Kausar @ Sonam & Ors vs. State of Bihar*** that the misuse of section 498A IPC and increasing tendency of implicating relatives of husband in matrimonial disputes, without analyzing the long-term ramifications of a trial on the complainant as well as accused has to be deprecated. Specific role is not attributed to any accused or where general and omnibus allegations are made the accused cannot be forced to go through the tribulations of trial and FIR was quashed.

13. After going through the above law, it is clear that the allegations against the accused should not be general in nature and rather must be specific with specific roles assigned to each accused. Accused persons who are residing separately or were occasional visitors should be spared by going through their specific roles. In this case, FIR was lodged on the basis of a complaint dated 08.01.2015 made by the complainant to DCP concerned, which was followed by this FIR. All family members including married sister-in-law, brother-in-law, maternal father-in-law and unmarried sister-in-law besides husband and parents-

in-law have been implicated, whereas only revisionists Raj Kumar, Shayam Narain, and Sushila Devi were residing with her in the same matrimonial home after marriage. The complainant has levelled many allegations against the accused persons that they used to harass her during her matrimonial stay with them. On the other hand, revisionists No.4 Sandhya and PW5 Kundan are married husband and wife and were residing separately at House no. B-39A, Vijay Enclave, Dabri More, Palam, New Delhi, which is a much far away from the place / matrimonial home of the complainant at House No. 9, Raj Bagh colony, Sahibabad, Ghaziabad, UP. Even the revisionist No. 7 Vinod Kumar was also residing at Mohalla Kaluapura, Visheswar Ganj, Varanasi, UP, which is hundreds kilometer away from the house of complainant. In fact, it is beyond explanation as to why they would visit the matrimonial home of the complainant just to harass her for petty issues, which is not believable.

14. However, the abovesaid ground of separate residence of the accused person may not be alone ground to discharge them. The allegations against them also have to be seen. Complainant has alleged in this FIR that revisionist No. 4 Sandhya with her other sister (Chhaya) pulled her hairs and thrown her outside of her matrimonial home with her bag, but in Para No. 11 in which these allegations have levelled is silent about any time, date, month or year when such incident was caused by them. The entire complaint is silent since when revisionist No. 4 was residing in her matrimonial home to cause this incident, whereas she was residing separately with revisionist No.5. Similarly, revisionist No. 5 Kundan allegedly threatened to the complainant to kill her family members by showing a gun, but again there is no specific instance or date or occasion when such threat was extended by him. Rather it is not clear as to whether he has any such gun or not, as police have not seized any gun from the accused or at his instance. It is

beyond explanation as why he came all the way to the matrimonial house of the complainant just to extend this threat and that too just after six months of her marriage, which is again not believable. Contrary to it, the circumstances under which such threat was extended are also silent. If a person is residing separately and has just visiting terms, then it is very uncommon and un-believable that he would harass the complainant for any dowry demand, of which, he would never be a beneficiary. It is alleged against the revisionist No. 7, who is maternal father-in-law of the complainant, in Para 7 of FIR, that he used to remain lying in her room and used to leave room not prior to 1.00 or 2.00 am in night and whenever she asked him to leave her room, he used to threaten her to make a complaint to his sister/ mother-in-law of the complainant. Again, it is beyond explanation in what manner he harassed or caused cruelty to the complainant by this conduct. He had been residing separately and was also working at Varanasi, UP, then why he would visit her matrimonial home just to harass her on this petty issue. On the other hand, complainant has not filed any document to this effect that he had been residing with the complainant at her material home at the relevant time. As such, no prima facie offence u/s 498A/34 IPC is made out against the abovesaid accused persons.

15. So far as charges u/s 342/34 IPC are concerned, these allegations also could not be made out against the abovesaid accused. Though this allegation is vague, yet in the absence of any evidence against the abovesaid accused / revisionists that they were present at the matrimonial house of the complainant during her stay there, this offence also not proved against them, especially when she has not furnished any particular of illegal confinement by specific revisionist and is not sufficient to frame charges against them for this offence. Similarly, charges u/s 506/34 IPC are also not made out against revisionist Nos. 4, 5 and 7

as their presence at the matrimonial house was doubtful. They were residing separately and allegations qua this offence are not specific. As such, allegations against revisionists No. 4, 5 and 7, who were residing separately, are vague and without supporting any evidence.

16. Revisionist No. 6 is unmarried sister-in-law of the complainant and allegedly used to harass her just by asking her to prepare different meals before going to her college. She also used to beat and harass her. The allegations against her are mentioned in Para 11 of this FIR, but I have already observed that allegations are vague and without supporting any material to substantiate such allegations against both accused, especially when they were not residing with the complainant. On the other hand, accused has filed documents to prove that she was residing at Allahabad, UP in a hostel and visited Delhi on the day of the marriage of her brother with the complainant. She has filed railway tickets to prove that she visited Delhi just to attend this marriage and left again. In fact, allegations against her are also just vague, ominous and general in nature, whereas prosecution has not investigated such oral allegations to support. In fact, respondent no.6 was staying too far away to visit Delhi just to beat the complainant. As such, allegations against her could not be prima facie substantiated.

17. However, allegations against husband, mother-in-law and father in-law of the complainant are specific to some extent. They were residing with the complainant in the same house and the complainant has alleged many occasions when she was caused cruelty and harassment by the above said accused persons. In fact, by the specific instances given by the complainant, it may not be ruled out that they might have caused mental or physical cruelty to her. She has also

given specific mode and manner of causing such mental and physical cruelty to her by these accused persons. As such, it is sufficient to conclude a prima facie case against them and defenses of accused / revisionists are matter of trial and they are liable to face the charges framed against them.

18. Keeping in view the facts and circumstances of this case, I am of the opinion that no prima facie charges are made out against revisionists **Sandhya, Kundan, Chhaya and Vinod Kumar**, accordingly they are hereby **discharged** for all charges framed against them by Ld. Trial Court vide impugned order dated 10.05.2019. However, remaining accused / revisionists namely **Raj Kumar, Shyam Narain and Sushila Devi shall face trial** for the charges already framed against them vide impugned order. With these observations, this revision petition is disposed of.

19. TCR be sent back to Ld. Trial Court along-with copy of this order for necessary information and compliance.

20. Copy of the order also be given *dasti* to both parties.

21. Revision petition be consigned to Record Room.

Announced in open court
today on 31.08.2022

(Devender Kumar)
Additional Sessions Judge-02
(NE): Karkardooma Courts, Delhi.