

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 1436 OF 2014
(Arising out of SLP(CRL.) No(s). 3458 of 2013)

DR. GULSHAN RAI DHAWAN & OTHERS

Appellant(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

O R D E R

Leave granted.

Respondent no. 2 namely Dr. Kiran Dhawan was married to Kuldeep Dhawan on 12.8.1997. It appears that the husband and wife could not get along well and some differences started between them immediately after marriage. In November 1998, a Divorce Petition was filed by respondent no. 2. However, the said Divorce Petition was withdrawn as reconciliation took place between the two of them. As a result, from 1999, they again started living together. Unfortunately, this reunion turned out to be fragile and did not last for long as because of matrimonial discord erupting once again, in the year 2003, the co-habitation ceased and they started living separately thereafter. In the year 2007,

Signature Not Verified

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Deepak Mansukhani

Date: 2014.07.16
15:52:42 IST
Reason:

respondent no. 2 lodged FIR under Section 498A,

504, 506, 307 IPC read with Section 3 & 4 of the Dowry Act. In this FIR, apart from implicating

her husband, she roped in the appellants herein as well. Appellant nos. 1 and 3 are the brothers-in-law of respondent no. 2 and appellant no. 2 is her sister-in-law.

These appellants preferred petition under Section 482 of the Code of Criminal Procedure for quashing of the FIR against them on the ground that in the FIR there were no specific allegations against them. It was also submitted that such FIR was impermissible in view of the provisions contained in Section 468 of the Code of Criminal Procedure inasmuch as FIR was lodged 10 years after the marriage, and therefore, there could not have been any case under Section 498A IPC. The High Court, vide impugned judgment dated 19.3.2013, has dismissed the petition filed by the appellants herein rejecting both the contentions.

Challenging this order, present appeal is preferred. Notice was issued which is duly served

upon both the respondents, namely, the State which is arrayed as respondent no. 1 and the complainant respondent no. 2. However, inspite of service of notice, respondent no. 2 has not entered appearance.

In these circumstances, we have heard the matter with the assistance of the learned counsel

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for the respondent State.

We have gone through the FIR which is lodged by respondent no. 2 being FIR no. 192 of 2007 on 6.10.2007. A reading thereof makes it clear that the FIR is replete with the allegations that are levelled by respondent no. 2 against her husband. Insofar as appellants herein are concerned, there are no specific allegations of any nature whatsoever. Only at one place, the reference has come to "in laws" in the following manner:-

"....In the mean time the applicant became pregnant, and due to the cruel and inhumane behavior and beating by my husband and in-laws the applicant underwent an abortion, the applicant informed about it to her parents and the mother of the applicant reached Gwalior and the mother-in-law and father-in-law of the applicant reached there....."

It is clear from the above that even the expression "in laws" refers to mother-in-law and father-in-law and not to brothers-in-law and sister-in-law, viz., the appellants herein.

Thus, we are of the opinion that insofar as present appellants are concerned even in the FIR,

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no case is made out against them under the aforesaid provisions. This appeal is accordingly allowed and the proceedings arising out of the aforesaid FIR, insofar as they relate to the appellants herein are hereby quashed.

.....J.
(J.CHELAMESWAR)

.....J.
(A.K. SIKRI)

NEW DELHI
JULY 11, 2014.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3458/2013

(Arising out of impugned final judgment and order dated 19/03/2013
in CRLMA No. 679/2008 passed by the High Court Of Uttarakhand At
Nainital)

DR. GULSHAN RAI DHAWAN & OTHERS

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

(with appln. (s) for stay and office report)

Date : 11/07/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s) Mr. Sanjay Jain ,Adv.
Ms. Anjana Sahni, Adv.
Mr. Babbanjit Singh Mew, Adv.

For Respondent(s) Mr. Amit Kr. Singh, Adv.
Mr. Prateek Dwivedi, Adv.
Mr. Amit Kishore Sinha, Adv.
Mr. Abhishek Chaudhary ,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.
The appeal is allowed in terms of the signed
order.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER

(Signed order is placed on the file)