

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICITON

CRIMINAL APPEAL NO(s). 1360 OF 2013
(Arising out of SLP (Crl.) No.6255 of 2011)

R.JAYASHREE

Appellant(s)

VERSUS

P.O.RAJU & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal arises out of order dated 3rd August 2010 passed by the High Court of Karnataka at Bangalore whereby Criminal Petition No.1659 of 2010 filed by the respondents under Section 482 of the Code of Criminal Procedure, has been allowed and C.C. No.7154 of 2010 pending before the Chief Metropolitan Magistrate, Bangalore, quashed.

It is, in our opinion, unnecessary to set out in extenso the factual matrix in which the controversy arises. We say so because the High Court has while dealing with the issues urged before it narrated the facts at some length which should suffice. All that we need mention is that the High Court has exercised its power under Section 482 of Cr.P.C. and quashed the criminal proceedings initiated against the respondents under Sections 498A, 417 and 506 Indian Penal Code on the ground that the averments made in the FIR, lodged against the respondents, did not constitute cruelty or disclose any offence punishable under Sections 498-A, 417 and 506 of I.P.C.

Having heard learned counsel at some length, we are of the opinion that the High Court was in error in taking that view. The First Information Report which forms the basis of the charge leveled against the respondents, in our opinion, made specific allegations that would constitute cruelty if proved at the trial. For instance, the First Information Report made several accusations of torture and harassment including an allegation that the complainant-wife was denied food which accusation if proved would certainly tantamount to cruelty. An accusation that the complainant had got married to her husband without incurring any expenditure, meaning thereby that the complainant had not brought sufficient dowry was also made against the complainant-wife according to the FIR. It was further alleged that the complainant was locked out of the house by the accused persons only to harass and torture her. A complaint regarding the alleged disappearance of the husband was, according to the complainant, similarly filed with a view to harassing the complainant. It was also alleged that the complainant's belongings including her dowry worth Rs.2 lakhs were taken away by the accused persons and the complainant forced to take shelter with her parents. The relevant portion of the FIR may at this stage be extracted for facility of reference:

"Later Jobiraju father PO Raju mother Susamma, elder brother Joman Raju, younger sister Joli Raju all came and insisted that we all will live in one house and Chikkabetahalli Adityanagar in a new rented house which has been taken for the purpose. And as per this myself and my husband on 15.3.2009 went to our father in law house No.191, Adityanagar Chhikkabetahalli, Yelahanka Satellite Town, Bangalore city and we all lived together. After coming to this place my mother in law Susamma was not allowing me to talk to my husband, my husband's father, mother and elder brother and sister all started telling to my husband to leave Jayashri and we will perform your marriage by selecting another girl. And we all are not happy with your this marriage and saying so were quarelling. And also were telling that without any expenditure you have

married our boy, and in our house there are more persons who are to be married, it involves a lot of expenditure and hence first you have to work and bring in money and saying so, they were talking with regard to putting me in P.G. (Paying Guest) accommodation. And while my husband was with me they never used to allow to live with him properly and I was deprived of food and breakfast and torturing and harassing me. Hearing their words my husband Jobiraju also was quarelling with me, on 26.3.2009 my husband who has gone out of the house didn't return back to the house. In this connection my father in law Jobi Raju filed a missing complaint before the Yelahanka Satellite Town Police Station, later on my father in law, mother in law, niece and brother all, all of them every day used to provoke and quarrel with me, on 7.5.2009 when I was out of the hosue, my father in law, my mother in law, my niece and brother in law, all of them without any information have locked the house and left the place. Marrying me and later on purposefully my husband has left me and gone out of house, eventhough this matter was known to my father in law, he has given a missing complaint of his son and have registered the case, and later on when I was not at home, at that time in order to cheat me with a malafide intention my father in law, mother in law, niece and brother in law all of them together, the things which I have kept at home my belongings and my golden jewels worth about Rs. 2,00,000/- valued, depriving me of the same have taken and gone, later my father knowing about this matter, he came and took me to the house, and presently I am living with my father. My husband family members are originally from Kerala (belonging to Christian community), when I went in search of them to their own native place in Kedrala State, Pattanamthitta District, near Koduman Angadikal village, along with my mother Manjula on 12.6.2009, and met at the spot my father in law Raju, with regard to my husband and with regard to my jewelleries when I asked, he said where is your husband we don't know, if you want go and search, and your jewellery and items is not known to us, and if you come again to this place, we will finish you off, like this he threatened me of life."

The High Court has despite the above allegations in the FIR held that the accusations against the respondents did not constitute cruelty. The High Court was clearly in error in doing so. The expression "cruelty" appearing in Section 498A of the I.P.C. has been defined in Explanation to Section 498A, thus:

"498A. Xxx xxx xxx

Explanation.- For the purposes of this section, "cruelty" means-

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

A plain reading of the above makes it manifest that any willful conduct which is of a nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical would constitute cruelty. Harassment of the woman where such harassment is with a view to coercing her or any

person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand is also cruelty within the meaning of Section 498A of the I.P.C. There is no gainsaying that the allegations made against the respondents in the instant case, if proved, would constitute cruelty as the same had the potential of not only driving the complainant to commit suicide but also to cause grave injury or danger to her life, limb or health. The High Court remained oblivious of the fact that powers under Section 482 of the Cr.P.C. have to be exercised sparingly and only in cases where the proceedings appear to be a gross abuse of process of law or where allegations made against the respondents even if taken as correct do not constitute an offence. The present, in our opinion, was not one such case where the High Court could have held that the allegations made against the respondents even if proved did not constitute an offence punishable under Section 498A of the I.P.C. so as to justify quashing of the ongoing proceedings.

In the result we allow this appeal, set aside the order passed by the High Court and remit the matter to the trial court for disposal in accordance with law. The parties are directed to appear before the trial court on 21st October, 2013.

At this stage learned counsel for the respondents submitted that since the respondents are natives of the state of Kerala and will have to travel long distance to attend the proceedings before the trial court at Bangalore, they could be exempted from personal appearance. The respondents shall be free to make a request for exemption from personal appearance before the trial court in which event the trial court is expected to pass appropriate order on the same in accordance with law.

We make it clear that the trial court shall not, in the matter of framing of charges or upon conclusion of the trial, be influenced by any of the observations made by us in this order or those made by the High Court in the impugned order. The observations made by us are for the limited purpose of determining whether the High Court was justified in quashing the proceedings by the order passed by it.

.....J.
(T.S. THAKUR)

.....J.
(VIKRAMAJIT SEN)

NEW DELHI

DATED 6th September, 2013.

ITEM NO.29

COURT NO.7

SECTION IIB

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).6255/2011

(From the judgement and order dated 03/08/2010 in CRLP No.1659/2010, of The HIGH COURT OF KARNATAKA AT BANGALORE)

R.JAYASHREE

Petitioner(s)

VERSUS

P.O.RAJU & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP,exemption from filing O.T. and office report)

Date: 06/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. Anil Kumar,Adv.

For Respondent(s) Mr. Roy Abraham,Adv.

Ms. Reena Roy,Adv.
Ms. Seema Jain,Adv.
Mr. Anupam Diwedi,Adv.
Mr. Himinder Lal,Adv.

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

Heard.

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order:

"In the result we allow this appeal, set aside the order passed by the High Court and remit the matter to the trial court for disposal in accordance with law. The parties are directed to appear before the trial court on 21st October, 2013."

|(Mahabir Singh)
| Court Master

|(Veena Khera)
| Court Master

(Signed order is placed on the file)