

Praveen Kumar & Ors vs Union Of India & Ors on 4 September, 2020

Author: Vibhu Bakhru

Bench: Vibhu Bakhru

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 2190/2019 & CRL. M.A. 39955/2019 (stay)
CRL. M.A. 11033/2020 (modification of order)

PRAVEEN KUMAR & ORS

Through Mr Kirti Uppal, Senior Advocate
Mr Harsh Kumar, Mr Aditya Raj, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr Rahul Mehra, Standing counsel
Mr Chaitanya Gosain, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU
ORDER

% 04.09.2020 [Hearing held through video conferencing]

1. The petitioners have filed the present petition, inter alia, praying that the FIR bearing No. 0073/2019 under Sections 498-A/406/34 of the IPC and Section 4 of the Dowry Prohibition Act, 1961 registered with PS Welcome, Delhi be set aside.

2. Mr Kirti Uppal, learned Senior Counsel appearing for the petitioners contends that the said FIR is liable to be quashed as the same was registered without due inquiries and without considering the material provided by the petitioners. Mr Uppal contended that the petitioners had provided sufficient material to the Investigating Officer to clearly establish that none of the allegations made in the FIR were merited yet the FIR has been registered.

3. He referred to the FIR in question and drew the attention of this Court to the allegation that the petitioner used to compel the complainant to consume alcohol and on refusal used to physically assault her. He submits that the said allegation is patently false as certain whatsapp messages exchanged between the petitioner no.1 and respondent no.3 (Annexed as Annexure-L) would establish that the complainant would insist on consuming alcohol despite the petitioner discouraging her.

4. He further submits that the said FIR has been registered casually without following the guidelines as set out in the Standing Order No. 281 of the Special Police Unit for Women and Children. The said Standing Order sets out detailed instructions regarding inquiries to be conducted prior to the registration of the FIR.

5. Mr Uppal submitted that in terms of the said guidelines, necessary approvals of the concerned DCP/ACP are required to be obtained before registration of the FIR and as well as before any coercive steps are taken against the accused and the FIR was registered without securing such approvals.

6. Mr Rahul Mehra, learned Standing Counsel appearing for the State submitted that the FIR plainly discloses commission of an offence and therefore, the same ought not to be quashed. He further submitted that a charge sheet has already been filed and the question whether the material gathered by the IO is sufficient to raise a strong suspicion regarding commission of the offence, will be decided by the Trial Court after hearing the rival contentions in this regard. He further submitted that inquiries were conducted before the registration of the FIR and the Investigating Agency is not bound to place all the material collected in the charge sheet. He contended that the IOs have standing instructions to follow the guidelines before filing the charge sheet and the same have been followed.

7. A plain reading of the FIR indicates that respondent no. 3 (complainant) has made several allegations against the petitioners. Respondent no.3 (complainant) has stated that her marriage with the petitioner no.1 was solemnized on 23.11.2016 according to Hindu rites and ceremonies at Krishnayan Garden, University Road, Gwalior, Madhya Pradesh. She alleged that their marriage celebrations were ostentatious and sufficient jewellery and dowry was given by the complainant's parents to the petitioners. She had also alleged that as per the demands of the petitioners, a Maruti Vitara Breza was also given as dowry at the time of their marriage. In addition, a sum of 21-22 lakhs was spent by them on the marriage, as per the demand of the petitioners.

8. She further alleged that immediately on reaching her matrimonial home accused no.3 (petitioner no.2- the complainant's sister-in-law) had taken away her earrings stating that the same would look better on her face. She further alleged that she had also removed five expensive saaris which were brought by the complainant and were a part of her Istitdhan. She alleged that she kept quiet at the material time and hoped that her sister-in-law would return the items after some time, but the same was not done.

9. Next, she alleged that the complainant's mother-in-law had also taken her jewellery on the pretext of keeping it in safe place but had refused to return the same. She alleged that her husband (petitioner no.1) took control of all her affairs including her bank account and used to spend her hard earned money as per his own will. Thus, she was even deprived of her earnings.

10. She further alleged that even though her parents had given a vehicle in dowry, her mother-in-law and sister-in-law used to taunt her, as they wanted a Toyota Fortuner Car. The complainant has also made allegations regarding use of abusive and filthy language been used against her. She has further

alleged that she was also physically tortured and beaten.

11. It is not necessary to narrate the entire allegations made in the FIR as it is ex-facie apparent that if the same are found to be correct they do disclose commission of offences.

12. Clearly, in view of the allegations made by respondent no.3, the FIR cannot be quashed. The contention whether the said allegations are bereft of any substance is a matter to be considered by the Trial Court while considering the order on charge. The question whether the evidence collected by the IO establishes the commission of the alleged offences would be considered by the Trial Court, if the charges are framed and the matter is put to trial. In *State of Haryana vs Bhajan Lal*: 1992 Supp (1) SCC 335, the Supreme Court had set out the grounds on which the FIR could be quashed. This Court is of the view that none of the grounds are made out in this case.

13. The only question remaining to be addressed is whether the FIR has been registered contrary to the Standing Order No. 281 and without obtaining the necessary approvals. To this limited extent, Mr Rahul Mehra seeks time to examine the records and file a reply. Let the same be filed within a period of one week from today.

14. List on 29.09.2020.

VIBHU BAKHRU, J SEPTEMBER 4, 2020 pkv