

Mohd Meraj Alam vs State Nct Of Delhi & Anr on 5 August, 2024

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 6024/2024

MOHD MERAJ ALAM

Through:

ver

STATE NCT OF DELHI & ANR.Res

Through: Mr. Rajkumar, A

the State

SI Anil Kumar,

Nagar

89

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CRL.M.C. 6041/2024

SEHZADI ALIAS FARHAT

JABIN & ORS.

Through:

ver

STATE NCT OF DELHI & ANR.Res

Through: Mr. Rajkumar, A

the State

SI Anil Kumar,

Nagar

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORD

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05.

CRL.M.A. 22975/2024 (for exemption)

CRL.M.A. 23052/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.

2. These applications stand disposed of.

CRL.M.C. 6024/2024 & CRL.M.A. 22974/2024 (for ex-parte This is a digitally signed order.

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CRL.M.C. 6041/2024 & CRL.M.A. 23051/2024 (for ex-parte

1. The present petitions have been filed seeking quashing of FIR No. 18/2023 dated 09.01.2023, registered at Police Station Jamia Nagar, for offences under Sections 498A/406/34 of the Indian Penal Code, 1860.
 2. The present FIR was registered at the behest of Respondent No. 2 alleging harassment on the ground of demand for dowry by the petitioners. It is also alleged that a large amount of dowry was also given at the time of the marriage. Respondent No.2, at the relevant time, was married to the petitioner (in CRL.M.C. 6024/2024). The petitioners (in CRL.M.C. 6041/2024) are the relatives of the petitioner (in CRL.M.C. 6024/2024).
 3. The learned counsel for the petitioners submits that the petitioners have been unnecessarily and falsely implicated in the present case.
 4. He submits that the petitioner (in CRL.M.C. 6024/2024) and the complainant got married on 07.10.2021 pursuant to which, on 11.10.2021, the complainant went to her maternal home in Village Ugama along with her parents and she never came back.
 5. He submits that, strangely, after almost one year, a complaint was given by the complainant to the ACP, Women Crime Branch, alleging cruelty in regard to demand of dowry. The same led to the registration of the FIR on 09.01.2023.
 6. He submits that even if the allegations are taken to be correct, admittedly, there is an inordinate delay in registration of FIR.
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7. He contends that the present FIR is the outcome of vexatious and frivolous allegations made with ulterior motive of wrecking vengeance.
 8. He further points out that the petitioners (in CRL.M.C. 6041/2024) are labourers in Bihar and the complainant has lodged the FIR in Delhi solely to harass them.
 9. Concededly, the FIR was registered way back on 09.01.2023 and the chargesheet has already been filed in the present case. The matter is now pending before the learned Trial Court for consideration for arguments on charge.
 10. It is not disputed that the learned Trial Court, after considering the arguments as advanced by the petitioners, would pass an appropriate order either framing charges or discharging the petitioners.

11. No reason has been given by the petitioners as to why it has taken more than one and a half year to file the present petition seeking quashing of the FIR.

12. While the exercise of power under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) is not barred when there is an alternative remedy, a litigant cannot be allowed to circumvent or subvert the due procedure of law on mere apprehension of a long-drawn litigation.

13. The Hon'ble Apex Court in the case of Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736 has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings. The relevant portion of the same is reproduced hereunder:

"12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few--Madhavrao Jiwajirao Scindia v. Sambhajirao This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 12/08/2024 at 20:46:21 Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 :

2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 12/08/2024 at 20:46:21 contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not."

(emphasis supplied)

14. It is true that the Court ought to look into the FIR with care and a little more closely in case it finds that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance. In such circumstances, the Court can look into the attending circumstances emerging from the record of the case and can read between the lines. It has become an increased tendency to implicate the relatives in the matrimonial disputes, whereby, if the allegations are far-fetched and it appears that the provisions of Section 498A of the IPC are misused, the Court can interfere while exercising powers under Section 482 of the CrPC [Ref. Achin Gupta v. State of Haryana & Another : 2024 SCC OnLine SC 759 ; Abhishek v. State of Madhya Pradesh : 2023 SCC OnLine SC 1083 and Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors. : (2022) 6 SCC 599]

15. However, this Court also cannot lose sight of the ground reality that the social evil of greed for dowry is deeply rooted in the society and numerous victims are subjected to unspeakable conduct and harassment on account of the same.

16. In the present case, a bare perusal of the FIR shows that specific allegations have been made against the petitioners regarding demand of dowry and ill-treatment meted out to the complainant. The petitioners have been specifically named in the FIR. It is alleged that the in-laws of the complainant were not satisfied with the dowry, due to which, they started taunting the complainant as soon as she reached the matrimonial home. It is This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 12/08/2024 at 20:46:21 specifically alleged that the petitioner (in CRL.M.C. 6024/2024) taunted the complainant on the first day of the marriage itself that her parents had not given sufficient dowry and that the families of other girls were willing to pay more in view of his government job. Insofar as the petitioners (CRL.M.C. 6041/2024) are concerned, specific allegations have been made regarding similar taunts for insufficient dowry against them as well. It is further alleged that when the complainant was unwell, the petitioners called her mother and sent her to her maternal home. It is alleged that even when the complainant was being ousted from her matrimonial home, all the petitioners asked for a car as dowry.

17. It is argued that the present FIR was filed belatedly to solely harass the petitioners, however, this Court cannot ignore that the allegations in the present FIR are not generic or vague in nature. While some of the allegations are general in nature and made against all the in-laws, the complainant has also mentioned separate instances attributing specific role to the accused persons and given the particulars of the demands made from her and her family.

18. As discussed above, in exercise of jurisdiction under Section 482 of the CrPC, this Court is required to read the FIR as a whole without undertaking a detailed enquiry into the merits or genuineness of the allegations. At this stage, it cannot be said that the allegations made in the complaint do not constitute any offence against the petitioners.

19. Prima facie, the allegations taken at their face value, disclose an element of criminality and commission of a cognizable offence. The same do not seem so improbable or perverse that they merit the exercise of the jurisdiction of this Court under Section 482 of the CrPC.

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20. This Court does not consider it apposite to comment further on the facts at this stage when charges are yet to be framed.

21. Concededly, the investigation is complete and the chargesheet has been filed. The learned Trial Court after considering the material on record will consider whether the prima facie case is made out for the purpose of framing of charge.

22. In view of the above, no case is made out for quashing of the FIR.

23. Needless to state, it is open to the petitioners to take all their defences before the learned Trial Court and they are at liberty to approach this Court in case any grievance remains.

24. The present petitions are dismissed in the aforesaid terms.

25. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J AUGUST 5, 2024 "SS"

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