

## Deepti @ Arati Rai vs Akhil Rai & Ors on 14 September, 1995

**Equivalent citations:** 1995 SCC (5) 751, JT 1995 (7) 175, AIR ONLINE 1995 SC 137, 1995 (5) SCC 751, (1995) 4 CUR CRI R 49, (1996) 10 OCR 133, (1995) 3 CRIMES 818, (1996) 1 EAST CRI C 367, (1995) 3 SCJ 659, (1995) 3 REC CRI R 638, (1996) 2 CHAND CRI C 14, (1995) 3 ALL CRI LR 714, (1995) 2 CRI CJ 642, 1995 CRI LR(SC MAH GUJ) 695, (1995) 7 JT 175, 1995 SCC (CRI) 1020, (1996) 1 SC CR R 291, 1995 CRI LR (SC&MP) 695, 2004 (13) SCC 748

**Author:** G.T Nanavati

**Bench:** G.T Nanavati

PETITIONER:

DEEPTI @ ARATI RAI

Vs.

RESPONDENT:

AKHIL RAI & ORS.

DATE OF JUDGMENT 14/09/1995

BENCH:

NANAVATI G.T. (J)

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NANAVATI G.T. (J)

ANAND, A.S. (J)

CITATION:

1995 SCC (5) 751                      JT 1995 (7)      175

1995 SCALE (5) 328

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T NANAVATI, J.

Leave granted.

The appellant made a complaint to the officer Incharge of Women Police Station, Bilaspur alleging demand of dowry, harassment and cruelty by respondents no. 1, 2 and 3 being the husband, father-in-law and mother-in-law respectively. The police after making investigation, filed a charge sheet against the said respondents in the Court of the Judicial Magistrate, Ist Class, Bilaspur, indicating commission of an offence under section 498(A) IPC. The learned Magistrate after supplying copies of the charge sheet and other documents and hearing the learned Advocate for the accused framed a charge under section 498(A). The order framing the charge was challenged by the accused by filing Criminal Revision No.260 of 1993 in the Court of Addl. Sessions Judge, Bilaspur. The learned Addl. Judge was of the view that there was sufficient material to frame a charge against all the accused and therefore, dismissed the Revision Application. Thereafter the accused approached the High Court under section 482 Cr. P.C. with a prayer to quash the said charge and the proceedings instituted upon the basis of the aforesaid charge sheet. The High Court referred to its earlier order dt. 29.10.93 whereby respondent No.1's application for quashing the charge was rejected. It then proceeded to consider the application of respondents no.2 and 3 for quashing the charge. In its order the High Court has observed that:

"On perusal of the record, it transpires that no specific overt act is attributed to the applicants 2 and 3, who are in-laws of the informant. The allegation that she was subjected to physical and mental torture are attributed to her husband who is not an applicant in this case."

It then referred to the concession made by the Deputy Government Advocate that "there is no material for framing of charge against the present applicants under section 498(A) IPC." On these grounds it allowed the application and quashed the charge framed under section 498(A) against applicants nos.2 and 3. Feeling aggrieved by the judgment and order passed by the High Court, the wife has approached this Court.

It was contended by the learned counsel for the appellant-wife that the finding recorded by the High Court that there is no allegation of beating, harassment and demand against respondents 2 and 3 is because of misreading the complaint and the other material on record. In view of this contention, we have gone through the complaint filed by the appellant and also the statements of Suresh Chandra Verma, father of the appellant, Devesh, elder brother of the appellant and Ramesh, cousin of the appellant. In her complaint the appellant has clearly stated that three or four months after the marriage her husband, her father-in-law and mother-in-law started harassing her as VCR was not given to her in dowry. She has further stated that her father-in-law and mother-in-law used to demand Rs.6500/- in cash. She has also stated that she was beaten by her husband on 27.7.90, 4.10.90, 12.1.91, 28.1.91, 31.1.91, 12.2.91 and 8.3.92 and that her mother-in-law and father-in-law used to join her husband in beating her and abusing her relatives. She has also stated that her mother-in-law, father-in-law and husband had not given food to her on 24/25th April, 1992. Devesh, in his statement, has stated that respondent no.1 used to beat his sister after taking liquor and her mother-in-law and father-in-law used to harass her. Ramesh has also stated in his statement that he was informed by the appellant that she was harassed by her husband and parents-in-law. He has further stated that she was asked to bring money for VCR by her husband and by the parents-in-law. From what we have pointed out, it becomes apparent that there was sufficient

material for the learned Magistrate for framing a charge under section 498(A) even against respondents no.2 and 3. It further appears to us that the learned Government Advocate who appeared on behalf of the State before the High Court made the concession without going through the record. We are constrained to observe that the learned Government Advocate should have conducted the case in a more responsible manner considering the nature of the case. The High Court also should have taken care to verify the record before accepting the concession made by the learned Government Advocate. It should have also applied its mind to the aspect that second revision application, after dismissal of the first one by Sessions Court is not maintainable and that inherent power under section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code. As we find that the order passed by the High Court is not legal and just it will have to be set aside. We accordingly allow this appeal, set aside the impugned judgment and order passed by the High Court and direct the Judicial Magistrate Ist Class, Bilaspur to proceed further with Criminal Case No.69 of 1993.