

IN THE COURT OF AMIT SHARMA, JUDICIAL MAGISTRATE IST
CLASS, KARNAL.

Criminal Case No.: 560 of 2012

Date of Institution: 1.3.2011/15.11.2012

Date of Order: 18.5.2013

State

Vs.

Pankaj son of Lila Ram, resident
of Block 5, House No.95, Charam
Wood village Faridabad, Haryana.

2. Krishna Kataria wife of Lila Ram
Kataria, resident of Block No.5,
House No.96, Charam Wood,
Village Faridabad, Haryana.

...Accused

F.I.R.No.764 dated 20.8.2012

Under Sections: 498-A, 406, 506/34 of IPC.

Police Station: City Karnal.

Present: Shri Narender Pal, APP for the state.
Accused Pankaj Kataria and Smt.Krishna Kataria in person.

ORDER

1. Accused Pankaj has appeared and suffered a statement that he wants to advance the arguments on charge and defend his case on his own for himself and on behalf of his mother. Statement to this effect in this regard has been recorded separately. Further accused Smt.Krishna Kataria suffered a statement that she does not have any objection if the arguments on charge are advanced on her behalf by her son and she authorises her son to advance the arguments on charge before this court.
2. Arguments heard on the point of charge. Accused Pankaj has argued before me that no prima facie case against the accused persons is made out from the perusal of the documents available on record. He has further submitted that no specific

allegations has been made in the complaint against the accused persons and false allegations have been made by the complainant in her complaint and no specific allegations with regard to dowry as well as cruelty has been alleged in the complaint made by her. He has submitted written arguments and relied upon the judgments in case titled as Neelu Chopra & Anr. Vs. Bharti, criminal Appeal No.949 of 2003 decided on 7.10.2009 by Hon'ble Supreme Court of India, Manju Ram Kalita Vs. State of Assam, Criminal Appeal No.299 of 2003 decided on 29.5.2009 by Hon'ble Supreme Court of India, Ran Singh & Anr. Vs. State of Haryana & Anr. In 'Appeal (Crl.) 222 of 2008 decided on 30.1.2008 by Hon'ble Supreme Court of India, Rakesh Kumar & Others Vs. State of Punjab and another, Criminal Misc.No.M-18404 of 2008 decided on 22.1.2009 by Hon'ble High Court of Punjab & Haryana, Girdhar Shankar Tawade Vs. State of Maharashtra in Appeal(Crl.) 463 of 1996 decided on 24.4.2002 by Hon'ble Supreme Court of India, state of Karnataka Vs. L.Muniswamy & Ors. 1977 AIR 1489, Supreme Court of India, Ajay Mitra Vs. State of M.P.& Ors. in Appeal (Crl.) 129 of 2003 decided on 28.1.2003 by Hon'ble Supreme Court of India, Durga Ram & Ors. Vs. State of Anr. Crl.Rev.P.No.666/2010 decided on 1.2.2011 by Hon'ble High Court of Delhi at New Delhi, Smt. Neera Ssingh Vs. The State(Govt. Of NCT of Delhi) and Ors. 138(2007)DLT



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152. Satish Mehra Vs. Delhi Administration & Anr.
Decided on 31.7.1996 by Hon'ble Supreme Court of India.
Pehlad Kumar & Ors. Vs. State of Haryana & Anr.
II(1997)DMC 195, Rajpal Singh vs. State of Haryana,
II(2000)DMC 572, the State of Assam Vs. Achit Ranjan
Dey and Ors. 1989 CrLJ 1117, Parmod Kumar Oberoi
and Ors. Vs. Radha Rani, II(1990) DMC 385, Devi Lal and
Ors. Vs. State of Haryana I(1993) DMC 95, Mahinder
Singh and Anr. Vs. State of Haryana and Anr. II(1993)
DMC 605, Krishan Jeet Singh Vs. State of Haryana
II(2003) DMC 127, Lawrence Vs. State of Kerala, 2002
CrLJ 3458 & Savitri Devi Vs. Ramesh Chand and Ors. In
CrL.R.462 of 2002 decided on 19.5.2003. With these

submissions, accused persons prayed that they deserves to be discharged.

3. On the other hand Id.APP for the State has argued that the factum of marriage between the complainant and accused no.1 Pankaj is not disputed and the present FIR was lodged against the accused persons on the complaint filed by the complainant Shruti before the Superintendent of Police, Karnal and matter has been duly investigated by the police and accordingly the challan was presented against the accused persons on 1.3.2011 under sections 498-A, 406 & 506 read with section 34 of IPC.

4. I have perused the aforesaid authorities and have gone through the file carefully and thoughtfully. The written arguments

submitted by accused may be relevant at an appropriate stage but at the time of framing of charge this court cannot evaluate the allegations with regard to forming an opinion as to conviction or acquittal of the accused. At this stage this court has to ascertain that as to whether from the material available on record any charge is made out against the accused or not. It is pertinent to mention here that when the Court frames the charge, then it is not the duty of the Court to record the reasons. The Court has to form an opinion only. In this regard, I draw my support from the observations held in case titled as Lalu Prasad @ Lalul Prasad Yadav V/s State of Bihar through CBI (AHD) Patna, 2007(1) ACJ, 507 (SC) wherein Hon'ble Apex Court has held that:-

“Charge-Framing of-Reasons for framing charge need not to be recorded-Court has to form an opinion only-However, in case order of discharge is to be passed, it is imperative to record reasons-If reasons are recorded in case of framing of charge, there is likelihood of prejudicing the case of accused put on trial.”



5. Further, Hon'ble Apex Court has the occasion to discuss the question in State of Orissa and another V/s Saroj Kumar Sahoo, 2006(1) RCR (Criminal), 324-325 wherein Hon'ble Apex Court has held that:-

“Framing of charge-At the stage of framing of charge court has to only prima-facie be satisfied about existence of sufficient ground for proceeding against the accused- For that limited purpose, the court can evaluate material and documents on records but it cannot appreciate evidence-The

Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused."

6. Further, in Balraj Kumar V/s Smt. Kuldeep Kaur 2006(4) RCR (Criminal), 185 our own Hon'ble High Court has held that:-

"Discharge of accused-Only prima facie case is required to be seen-Detailed and meticulous reference to the evidence, defence and other considerations is not required- Matter of defence can be raised at the appropriate stage."

7. Coming back to the case in hand, now accused has submitted that no case is made out against the accused persons. But I am unable to countenance with this contention of the accused persons as they will get an opportunity to raise their defence at the appropriate stage.

8. At this stage the court has to see whether any prima facie case has been made out against the accused on the basis of documents as well as investigation conducted by the police. From the perusal of the complaint submitted by complainant Shruti to the SSP, Karnal and also from the bare perusal of the FIR dated 20.8.2010 there are specific allegations against the accused persons that immediately after the marriage of the complainant with the accused, the husband of the complainant, her mother-in-law as well as her father-in-law had started torturing her and made demands of dowry. There are also specific allegations that the valuable car was not given in the dowry and the complainant was tortured physically as well as mentally. The

complainant has also specifically alleged that accused used to beat her physically and husband of the complainant has tried to make fell down from the running motorcycle and also threatened her that she should abort herself otherwise he will kill the child in the womb itself. At this stage from the perusal of the documents as well as challan submitted by the prosecution, this court is of the considered view that a prima facie case against the accused persons are made out for the offence under section 498-A and 506 read with section 34 of IPC and at this stage no ground for discharging the accused as prayed by them is made out. However, no prima facie case against the accused persons for the offence u/s 406 of IPC is made out as the complainant herself has stated to the DSP, Karnal that she has no place to keep her dowry articles as well as other goods given at the time of marriage and the same may be allowed to be kept at his in-laws house. Accordingly, the accused persons have been charge sheeted for the offence u/s 498 & 506 read with section 34 of IC and the contents of the charge were read over explained to the accused in vernacular language, to which they pleaded not guilty and claimed trial. Now to come up on 20.7.2013 for evidence of the prosecution. Summons to witnesses be issued.

me / Pronounced in Open court:
18.5.2013

Sd
(Amit Sharma)
Judicial Magistrate 1st Class,
Karnal.

All the pages have been checked and signed by me.

Sd
(Amit Sharma)