

**IN THE COURT OF SHRI VIVEK KUMAR GULIA
ASJ-03 & SPECIAL JUDGE (COMPANIES ACT)
DWARKA DISTRICT COURTS, DELHI**

Criminal Revision No. 11/2018
(Registration No. CR/107/2018)
(CNR No. DLSW01-005594-2018)

In the matter of:

Pooja,
W/o Sh. Ravinder @ Ravi,
R/o Y-2K-38, Staff Quarters,
Rao Tula Ram Hospital,
Jaffarpur Kalan, Najafgarh,
New Delhi-110043.

... Petitioner

Versus

1. Ravinder @ Ravi,
S/o Sh. Satbir,
2. Rahul @ Vijay,
S/o Sh. Satbir,
3. Bimla,
W/o Sh. Satbir,
All R/o WZ-20, E-Block,
Budhela, Vikas Puri,
New Delhi-110018.
4. Rakhi,
W/o Sh. Braham Parkash,
R/o D-46, Durga Vihar,
Phase II, Deenpur,
Najafgarh, New Delhi.

5. Mamta,
W/o Sh. Pankaj,
R/o H.No. C-8-306, Sultanpuri,
Near Balmiki Mandir,
New Delhi.

6. The State Govt. of NCT of Delhi.

... Respondents

Date of Institution	:	06.03.2018
Date of Arguments	:	11.12.2018
Date of Decision	:	09.01.2019

ORDER

1. The present revision petition has been filed by the petitioner/complainant under Section 397 Cr.P.C. challenging the order dated 01.02.2018 (in short “impugned order”) passed by Ld. MM (Mahila Court-01), South West, Dwarka, New Delhi, in case FIR No.7/2016, PS Jaffarpur Kalan titled as “State vs. Satbir & Ors.”. Vide impugned order, the trial court ordered for discharge of all accused persons/respondents no.1 to 5 in respect of all the alleged offences punishable u/s 498A/406/34 IPC.

2. The petitioner has preferred the present revision petition, inter-alia, on the following important grounds:

2.1 That the trial court failed to appreciate the complaint dated 24.08.2015, wherein it was clearly mentioned that respondents used to beat

the petitioner on account of non-fulfillment of their demands;

2.2 That the trial court failed to appreciate that respondent no.1 has admitted the list of dowry articles lying in their custody;

2.3 That the trial court failed to appreciate that in respect of police complaint dated 12.06.2015 given by the petitioner, respondent no.1 had admitted his mistake; and

2.4 That the trial court failed to consider the statement of mother and uncle of petitioner mentioning the demands of dowry.

In view of above, it is prayed that the impugned order be set aside and charges may be framed against all the respondents.

3. I have heard Ms. Reena Singh, ld. counsel for petitioner, Sh.Sumant Manchanda, ld. counsel for respondents no. 1 to 5 and Sh. Girish Kumar Manhas, ld. Addl. PP for State/respondent no. 6. Trial Court record is also gone through.

4. It is submitted by ld. counsel for petitioner that by way of complaint dated 24.08.2015, which resulted into FIR, and the previous and subsequent police complaints, clear allegations of dowry demands and harassment were levelled against the respondents. It is further mentioned that apart from that, there were sufficient allegations to show that the respondents, in furtherance of common intention, took entire jewellery of the petitioner and did not return it subsequently. It is further mentioned that allegations of the

petitioner were corroborated by her family members and thus the charges u/s 498A/406/34 IPC were required to be framed against all the respondents. On the other hand, ld. counsel for respondents argued that the trial court had passed appropriate order for discharging the accused persons after appreciating all the material placed on record.

5. As far as offence u/s 498A IPC is concerned, the trial court noted that the complainant had not specified even a single incident of demand made to her and it further noted that regarding claim of complainant that she brought some money from her parental house, she had clarified in her statement u/s 161 CrPC that it was taken by her for her household expenses. Furthermore, it found that when sisters-in-law of the petitioner were admittedly living separately in their matrimonial house and no specific incident qua alleged cruelty committed by them has been disclosed and moreover on account of absence of previous police complaint or any medical record to corroborate allegations of complainant, no case u/s 498A IPC is made out. In view of this court, though ld. counsel for petitioner rightly mentioned that allegations of demand of money have been levelled in the police complaints, however, it is also evident that no specific incident has been mentioned in any of said complaints. Further, though the petitioner has mentioned that she had given money, sometimes 10,000/-, 5,000/- and 3,000/- to the respondents, but the trial court has rightly noted that in one of her police statements u/s 161 CrPC (recorded on 20.01.2017), she clarified that money was given to her by her father for her household expenses. Therefore, even if

it is accepted that the petitioner brought said money on the demand of respondents, but considering that same was meant for household expenses, same cannot be considered dowry/illegal demand, especially when the said money was brought over a period of long time.

6. Further, though it is found that the petitioner has mentioned in the FIR that her husband Ravi used to beat her mercilessly, however, it is to be observed that said beating was not allegedly given in connection with dowry demand. Moreover, trial court has rightly noted that neither any specific incident has been described nor any medical report or police complaint was placed on record by complainant to substantiate her version. On this aspect, it is noteworthy that prior to making the complaint for registration of FIR, the petitioner made a complaint dated 12.06.2015 to SHO PS Vikaspuri wherein she only mentioned that her husband used to abuse and misbehave with her and in case, he agrees not to do that with her in future, she would stay with him and does not want any action against him. In view of this court, this complaint indicates that relations between husband and wife might have been strained for some other reason apart from the dowry demand. It is also to be noted that in one of her supplementary police statements u/s 161 CrPC, the petitioner has clearly mentioned that her husband doubts her character and alleged that she had illicit relations with local resident. Further, it can be seen that even respondent no.1 had issued legal notice to the petitioner for divorce on the ground that she is having illicit relations and that respondent no.1 had not fathered the children. Thus, all these facts suggest that real dispute

between parties can be something other than dowry demand.

7. Further, as far as role of other family members of husband of petitioner is concerned, it can be seen that very general allegations were mentioned against them in the FIR. It is pertinent to mention here she had alleged that whenever her sisters-in-law came to her matrimonial house, they alongwith their mother tortured her and even put locks on her room. It is clear that the said misconduct on the part of mother-in-law or sisters-in-law of the petitioner was not in connection with any dowry demand. Further, though Id. counsel for petitioner has pointed out statement u/s 161 CrPC of the mother of petitioner namely Maya in support of his submission that at the time of marriage, the respondents had demanded a car, but it is found that no other family member of the petitioner has alleged about demand of car at any point of time. Furthermore, it is seen that even Chacha Anil Kumar and grandfather Bulle Ram of complainant had not alleged about any dowry demand and cruelty connected with that in their statement u/s 161 CrPC.

8. Moreover, Id. counsel for respondents has rightly relied upon the decisions of the Supreme Court given in case titled as “*Ram Saran Varshney & Ors. vs. State of Uttar Pradesh & Anr.*” in (2016) 3 SCC 724 and “*Geeta Mehrotra & Anr. vs. State of Uttar Pradesh & Anr.*” in (2012) 10 SCC 741, in support of his submission to dismiss the revision petition on the ground that allegations against respondents are quiet general and casual mentioning names of all specially sisters-in-law, who are married and residing separately,

and therefore, should not be taken seriously.

9. As far as offence u/s 406 IPC is concerned, the trial court dismissed the charge on the ground that petitioner has not been able to furnish any bill or proof of istridhan articles given at the time of marriage or subsequently. On this aspect, it is to be noted that the charge-sheet does not make it clear whether any list of istridhan/dowry articles was prepared at the time of marriage. Moreover, it is the allegation of the petitioner and her family members that her jewellery was taken by her mother-in-law on the ground that those were needed for the construction of their house. It is not disputed that respondents had built their house after the marriage of petitioner and further there is no allegation that though financial condition of the respondents was very good, still they took her jewellery in the garb of arranging money for construction. In view of this court, even if the allegations of the petitioner are accepted as it is, but the taking of jewellery for arranging money for raising construction of house, cannot be said to be sufficient to constitute offence u/s 406 IPC. It was not wrong on the part of the respondents to raise funds by selling jewellery for raising construction of house in case they were facing financial crunch and their act would not amount to mis-appropriation of said jewellery belonging to petitioner. Otherwise also, it is admitted case that petitioner belonged to a poor family and no costly gifts were given at the time of marriage and therefore in absence of concrete evidence to show as what istridhan articles were given to the petitioner at the time of marriage, it is difficult to accept the allegations of mis-appropriation of those articles.

Though, ld. counsel for petitioner has rightly pointed out that respondent no.1 had admitted his possession over few articles like motorcycle, fridge, bed, sofa, TV, wooden chair, etc., but there is not allegation that those articles were mis-appropriated or that respondents refused to return those articles to the petitioner.

10. For aforesaid reasons, it is concluded that the impugned order dated 01.02.2018 suffers from no illegality or irregularity and appears to have been passed within framework of law after correctly appreciating the material placed on record of the Trial Court by the prosecution side. In the result, **the present revision petition fails and is accordingly dismissed.**

11. Trial Court record alongwith copy of this judgment be sent back to the Trial/Successor Court immediately for information.

Announced in the open Court
on 09th day of January 2019
(total 08 pages)

(VIVEK KUMAR GULIA)
ASJ-03 & Special Judge (Companies Act)
Dwarka Courts (SW), New Delhi.