

**IN THE COURT OF MS. DIVYA SHARMA, PCS,
JUDICIAL MAGISTRATE 1ST CLASS,
BATALA.**

CASE NO.	017
DATE OF INST	2017
RBT NO.	2018
DECIDED ON	15.05.2019
DECISION	DISMISSED.

of	gh D/o	1, resident of village
thesil Batala, District Gurdaspur.		Complainant.
VERSUS		
1. h son of	gh,	
2. widon of	h,	
3. h son of	h,	
all residents of Pitampura,		r, New Delhi.
		Accused

Complaint Under Section 498-A/406/506/34 IPC
Police Station Sadar, Batala

Present: Complainant with counsel Sh. Baldev Singh, Advocate.

SUMMONING ORDER

The present complaint has been filed by complainant
r against accused persons for commission of offences punishable under
Section 498-A/406/506/34 Indian Penal Code (hereinafter referred as IPC).

1. Briefly, the facts as averred by complainant are that the marriage
between the complainant and h was solemnised on

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9/7/2016, according to Sikh rites and rituals at Delhi. Out of the wedlock, one male child namely h was born on 17.7.2017. At the time of marriage sufficient dowry articles were given to h & Ors as per their demand i.e. in the shape of Refrigerator, Washing Machine, Furniture, Gold articles etc. Soon after the marriage & Ors started harassing her for not bringing sufficient dowry articles and asked her to bring Rs.10 Lac for the purchase of Verna Car. When the complainant expressed the inability of her parents to meet their unlawful demands, they threatened to throw her out of the matrimonial home.

On 22.2.2017, mother of the complainant visited the house of her son-in law, where she was asked about the amount of Rs. 10 lacs. When denied to adhere to the demand of Rs. 10 Lacs, she was tied to the chair and was slapped. Complainant intervened to save her mother and on 25.2.2017 was expelled from the house. On 27.2.2017 complainant was also thrown out of the matrimonial home and all the ornaments were snatched by and Ors. Matter was reported to the police on 28.2.2017 but no action was taken against them. Further submitted that the complainant and her parents alongwith respectables approached the accused and made efforts to rehabilitate the complainant in the matrimonial home, but all in vain. Hence prayed that and Ors be summoned for commission of offence punishable under Section 498-A/406/506/34 of IPC.

2. To prove its case, complainant ir stepped into the witness box as **CW-1** and deposed on the lines of complaint which need not

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be reproduced for the sake of brevity. Complainant also got examined her mother as CW-2 who duly corroborated the version of complainant. Further, and 1 were also examined as CW-3 and CW-4 in order to corroborate its case.

3. Thereafter, complainant closed preliminary evidence vide statement dated 4/02/2019.

4. I have heard the submissions put forth by learned counsel for complainant and have perused the record minutely with his able assistance.

5. At this stage, this court is required to test whether the evidence led by the complainant in the preliminary evidence prima facie discloses the commission of offence by the accused. In the case titled ***U.P. Pollution Control Board v. Dr Bhupendra Kumar Modi 2009(1) RCR Criminal*** 733, Hon'ble Apex Court held that-

"At the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused."

Section 203 Code of Criminal Procedure provides that- "If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under Section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for doing so."

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6. The allegation of the complainant revolves around the fact that soon after the marriage and his family members taunted /tortured and harassed her for not bringing sufficient dowry. They raised demand of Rs. 10,00,000/- for purchase of Verna car which was not fulfilled by her, consequent to which they gave beatings to her and her mother and threw them out of the matrimonial house. Section 498-A IPC provides as hereunder-

"Husband or relative of husband or a woman subjecting her to cruelty. - Whoever, being the husband the husband or the relative of the husband of a woman, subjects such own to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. - For the purpose of this section, "cruelty" means -

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand"

7. It is the case of complainant that she got married to on 9.7.2016 and soon after the marriage and his family started harassing and taunting her for bringing insufficient dowry.

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They even raised a demand of Rs. 10,00,000/- for purchase of Verna car and when complainant expressed her inability to meet there demands, they gave her beatings and threw her out of the matrimonial home. Perusal of the file reveals that neither the list of articles allegedly given at the time of marriage nor bills pertaining to it have been filed. Moreover, till the filing of complaint no application or complaint was moved to SSP Batala qua the alleged harassment by her in-laws for dowry. Further the complainant has alleged that she was given beatings and was turned out of the matrimonial house, but no medical evidence/photographs have been placed on record to this effect. Further the witnesses who have been examined to corroborate the testimony of complainant is her mother CW-2 i.e. interested witnesses. Even CW-3 and DW-4 have been examined to corroborate the complainant version, but the witnesses have failed to state how they are aware of the facts narrated by them i.e. no doubt he has stated that they attended the marriage of complainant, but have failed to state there knowhow of the events arising subsequent to the marriage of complainant. In the absence of examination of any independent witness and any documentary evidence placed on record, the testimony of the complainant cannot be relied at.

8. Moreover, in the case titled as ***Dalip Kumar Sareen vs State of Punjab, 2013(7) RCR (criminal) 1851 (P&H)*** it was held that:-

"Summoning of an accused in a criminal case is a very serious matter. The order of magistrate, summoning accused must reflect that he has applied his mind to the facts of the case and law applicable thereto.

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He has to examine nature of complaint and evidence, both oral and documentary, in support thereof, relatable to relevant provisions of offences and that would be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that magistrate is silent spectator. Accused cannot be summoned in a routine manner. The criminal law cannot possibly be set into motion as a matter of course."

Further in the case titled as ***Rajesh Sharma v State of UP (Criminal Appeal No. 1265 Of 2017)***, it was observed that-

"Section 498A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman. The expression 'cruelty' in Section 498A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demands. It is a matter of serious concern that large number of cases continue to be filed under Section 498A alleging harassment of married women. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant."

From the perusal of the evidence discussed above, this court is of the considerate view that no substantial ground is made out to summon 1 & Ors under section 498-A/406/506/34 IPC. Court is conscious of the fact that at this stage only sufficient grounds have to be

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seen, but there must be some evidence on record to infringe the liberty of above named persons and also to label them as accused.

9. As an upshot of the above discussion, the present complaint being devoid of sufficient grounds to proceed against &

Ors is dismissed under Section 203 CrPC. File be consigned to Judicial Court Complex, Batala after due compliance.

Pronounced in open Court:
Dated: 15.05.2019

(Divya Sharma), PCS,
Judicial Magistrate Ist Class,
Batala.

Vineet Behl, Steno-II

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Present: Complainant with counsel Sh. ..., Advocate.

Arguments heard. Vide my separate detailed order of even date
the present complaint being devoid of sufficient grounds to proceed against
... and ... is dismissed under
Section 203 CrPC. File be consigned to Judicial Court Complex, Batala after
due compliance.

Pronounced in open Court:
Dated: 15.05.2019

(Divya Sharma), PCS,
Judicial Magistrate Ist Class,
Batala.