

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 3304/2010 & Crl.M.A. 16463/2010 (stay)**

% Reserved on: 18th November, 2011
Decided on: 4th January, 2012

PRADEEP GOYAL & ORS Petitioner
Through: Mr. Shashindra Tripathi, Adv.
versus

STATE & ANR. Respondent
Through: Mr. Manoj Ohri, APP for State with
SI Umesh Rana, PS Saraswati Vihar.
Mr. Gaurav Bhushan, Mr. Y.P.
Sharma, Mr.Amit Vashisth, Advs. for
R-2.

AND

+ **CRL.M.C. 3349/2010 & Crl.M.A. 16610/2010 (stay)**

KRISHANA DEVI & ORS Petitioner
Through: Mr. Shashindra Tripathi, Adv.
versus

STATE & ANR. Respondent
Through: Mr. Manoj Ohri, APP for State with
SI Umesh Rana, PS Saraswati Vihar.
Mr. Gaurav Bhushan, Mr. Y.P.
Sharma, Mr.Amit Vashisth, Advs. for
R-2.

Coram:
HON'BLE MS. JUSTICE MUKTA GUPTA

1. FIR No. 455/2003 under Section 498A/406/34 IPC was registered against the Petitioners in the present two petitions on the complaint of

Respondent No.2 Ms. Manisha Goyal. On filing of the charge-sheet learned Metropolitan Magistrate vide its order dated 10th March, 2010 directed framing of charge under Sections 498A/406/34 IPC against Petitioner Krishna Devi and Under Sections 498A/34 IPC against Petitioners Anil Goyal and Savita. The said order was challenged by both the State in Criminal Revision No. 2/2010 and the Petitioners Krishna Devi, Anil Goyal and Savita in the Criminal Revision No. 637/2010 before the Learned Additional Sessions Judge.

2. The Learned Additional Sessions Judge vide its impugned order dated 12th April, 2010 dismissed the revision petition filed by the Petitioners holding that there was no illegality in the impugned order as there was prima facie sufficient material on record directing framing of charge against Krishna Devi for offence under Sections 498A/406/34 IPC and against Anil Goyal and Savita for offence under Sections 498A/34 IPC. The State also challenged the order of the learned Metropolitan Magistrate dated 10th March, 2010 discharging Pradeep Goyal, Veena @ Anjali, Kajal Mittal, Vineet Mittal and Ms. Savita. It may be noted that Ms. Savita had been charged only for offence under Sections 498A/34 IPC and the revision petition filed by her against the said order had already been dismissed by the Learned Additional Sessions Judge vide order dated 12th April, 2010. However the Learned Additional Sessions Judge vide its impugned order dated 18th August, 2010 allowed the revision petition filed by the State and directed framing of charge under Sections 498A/406/34 IPC against Ms. Savita, Pradeep Goyal, Veena @ Anjali, Kajal Mittal and Vineet Mittal. It

may be noted that the two revision petitions got listed before two different Judges against the same order.

3. Since the two orders impugned arise from a common charge-sheet, the same are being dealt together.

4. The allegations as set out by the complainant in the FIR were that she was married to Rakesh Goyal on 22nd February 1996 at Delhi according to Hindu rites and ceremonies. The parties lived together and a daughter Ashima Goyal was born on 31st May, 2000. The parents of the complainant spent huge amount in the marriage besides giving a maruti car on demand. Even then the husband and her in-laws were not happy and satisfied and they continuously harassed and threatened the complainant for bringing insufficient dowry articles. As per the complaint the complainant was continuously subjected to very inhumane mental and physical torture, beatings and maltreatment by her husband along with his mother Smt. Krishna Devi, brother Anil Goyal, sisters Ms. Savita, Ms. Veena @ Anjali her husband Pradeep Goyal, Ms. Kajal and her husband Vineet Mittal and kept her hungry to put pressure on her to get fulfilled their demands from her parents. It is further alleged that her husband, mother-in-law, brother-in-law and sisters-in-law Ms. Savita and Ms. Veena @ Anjali took her jewellery ornaments approximately 800 gms on the pretext of keeping it in safe custody and never returned. The remaining 200 gms jewellery was taken away by her husband when he left the matrimonial home on 24th February, 2003 except approximately 60 gms of jewellery which the complainant was wearing at that time. It is further alleged that her mother-in-law, sisters-in-law Savita and Veena @ Anjali and brother-in-law Pradeep Goyal always

incited her husband to take divorce from the complainant or to kill her, so that they could marry him again. According to the complainant, her husband along with his mother and sister Savita tried to get rid of her and tried that her husband married a divorcee lady Anju Kapoor. On 24th February, 2003 her husband went to his factory and did not return home. She enquired from her parents about him. However, nobody had any knowledge about him. Her parents contacted her in-laws about the same and requested them to come at their residence. On 26th February, 2003 her mother-in-law and brother-in-law Anil Goyal came in the morning and shouted at her parents that they knew about the whereabouts of her husband and demanded Rs. 5 lakhs and only then they would let them know about the whereabouts of Rakesh, the husband of the complainant. Anil Goyal further shouted that if the demand was not fulfilled they would arrange the marriage of Rakesh with the said lady. In the meantime Pradeep Goyal also came there and shouted at her father and threatened him with dire consequences. Thus, she sought legal action against all of them.

5. A perusal of the complaint reveals that there is no specific allegation against Kajal Mittal and Vineet Mittal except that all the in-laws caused continuous inhumane mental and physical torture, beating and maltreatment. There is no allegation of entrustment to either Kajal or Vineet Mittal. Hence in the facts of the case Kajal and Vineet Mittal are liable to be discharged of the offences under Section 498A/406/34 IPC & impugned order dated 18th August 2010 is liable to be set aside to this extent.

6. Further as regards Ms. Krishna Devi I find no infirmity in the order of the Learned Metropolitan Magistrate or the Learned Additional Sessions

Judge directing the framing of charge under Section 498A/406/34 IPC and the order dismissing the revision petition therein.

7. As regards Petitioner Anil Goyal there are specific allegations of demand of dowry and only thereafter letting the complainant and her father know the whereabouts of her husband. However, there is no allegation of criminal breach of trust and thus the only offence for which the Petitioner Anil Goyal can be charged under Section 498A/34 IPC as held by the Learned Metropolitan Magistrate which order has not been disturbed by the order of the Learned Additional Sessions Judge dated 12th April, 2010.

8. As regards Ms. Savita there are clear allegations of harassment, threats to kill and also entrustment. Thus, I find no infirmity in the order of the Learned Additional Sessions Judge directing framing of charge under Section 498A/406/34 IPC against Ms. Savita.

9. As regards Ms. Veena @ Anjali and Pradeep Goyal besides the general allegations of harassment for demand of dowry there are specific allegations that they incited her husband that he should divorce her or kill her so that they can marry him to the other lady with whom he had extra marital relations, to fetch good dowry articles. As against Pradeep Goyal there are allegations of threatening the father of the complainant of dire consequences. Hence both Veena Goyal and Pradeep Goyal are liable to be charged for offences under Section 498A IPC. There is no specific allegation of entrustment against Pradeep Goyal and hence no charge for offence under Section 406 IPC is made out. There are also specific allegation of entrustment of istridhan to Ms. Veena @ Anjali which has not

been returned on demand. Thus, the Petitioner Veena @ Anjali is also liable to be charged for offence under Section 406 IPC.

10. The petitions and applications are disposed in terms of the conclusions as above.

(MUKTA GUPTA)
JUDGE

JANUARY 04, 2012
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