

Need for reconsideration of S. 498-A IPC in present form* (2010) 7 SCC 667

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(2010) 7 Supreme Court Cases 667

(Before Dalveer Bhandari and K.S. Radhakrishnan, JJ.)

Preeti Gupta and Another . . Appellants;
Versus

State of Jharkhand and Another . . Respondents..

Criminal Appeal No. 1512 of 2010, decided on August 13, 2010

A. Penal Code, 1860 S. 498-A Prosecution under Need for restraint Duty of Bar and Bench Social responsibility obligation to maintain social fibre of family life Genuine cases of dowry harassment matter of serious concern but exaggerated version of small incidents should not be reflected in the criminal complaints Allegations to be scrutinised with great care and circumspection, especially against husband's relatives who were living in different cities and never visited or rarely visited the matrimonial home of the complainant Need for serious relook at entire provision by Parliament recommended Held :

It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including the Supreme Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of society. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. It is seen that a large number of such complaints are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern. (Paras 30 and 32) The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on the advice or with concurrence of the learned members of the Bar who belong to a noble profession and must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases. (Para 33) Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations. (Para 34) The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in a majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. (Para 35) The allegations of harassment by the husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant wife resided would have an entirely different complexion. Such allegations of the complainant are required to be scrutinised with great care and circumspection. (Para 35) Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful. (Para 36) A serious relook at Section 498-A is warranted by the legislature. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. (Para 37) A copy of this judgment is directed to be sent to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law and Justice to take appropriate steps in the larger interests of society. (Para 38) B. Penal Code, 1860 S. 498-A and Ss. 406, 341, 323 & 120-B and Ss. 3 & 4, Dowry Prohibition Act, 1961 Quashing of complaint under S. 498-A IPC, against appellants (unmarried brother and married sister of complainant's husband) who were neither residing with complainant in her matrimonial home nor visited her Demand of luxury car, passing of sarcastic remarks (without stating actual wordings), and physical assault alleged against parents-in-law, husband and appellants No specific allegation made against appellants in complaint, and none of the witnesses attributing any role to them Held, their implication was only meant to harass and humiliate husband's relatives Permitting complainant to pursue complaint would be abuse of

process of law” Hence, complaint against appellants quashed” Courts cautioned to scrutinise such vexatious and frivolous complaints with great care and circumspection” Criminal Procedure Code, 1973” S. 482 (Paras 4, 27, 28, 35 and 38) C. Criminal Procedure Code, 1973” S. 482” Scope and power under” Restated” Further held, Court must be careful to see that its decision in exercise of this power is based on sound principles” Power should not be exercised to stifle legitimate prosecution but Court’s failing to use the power for advancement of justice can also lead to grave injustice (Paras 13 to 26)” Arising out of SLP (Crl.) No. 4684 of 2009. From the Judgment and Order dated 27-4-2009 of the High Court of Jharkhand at Ranchi in Crl. MP No. 304 of 2009