

HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR

(SB : SHEEL NAGU J.)

M.Cr.C. No. 10582/19

Smt. Ruchi Gupta & anr.

Vs.

State of M.P. & anr.

Shri Suresh Agarwal, learned counsel for the petitioners.

Shri S.S. Rajput, Public Prosecutor for the respondents No.1 /State.

Shri V.D. Sharma, learned counsel for the respondent No.2.

WHETHER REPORTABLE : Yes No

Law Laid Down:

"The definition of dowry u/S. 2 of Dowry Prohibition Act, 1961 is generic in nature so as to avoid any instances of dowry demand from going un-investigated, un-tried and if found proved un-punished, thereby achieving the object of the Dowry Prohibition Act, 1961 of tackling the social evil of dowry."

Significant Paragraph Numbers: 9

J U D G M E N T
(27/03/2019)

1. Inherent powers of this court u/S. 482 CrPC are invoked

seeking quashment of FIR dated 27/10/18 bearing crime No. 150/18 registered at Police Station Mahila Thana District Gwalior so far as it relates to the offence punishable u/S. 4 of Dowry Prohibition Act alongwith all the consequential proceeding emanating from the impugned FIR.

2. Petitioners are both sisters-in-law (nanad) of prosecutrix.
3. It is pertinent to point out that prosecution launched against the petitioners was initially in respect of offences punishable u/S. 498-A r/w 34 of IPC and Sec. 4 of Dowry Prohibition Act. This court vide order dated 19/2/19 passed in M.Cr.C. No. 3392/19 has already quashed the prosecution u/S. 498 A IPC inter alia against petitioners, but since no argument was extended in respect of prosecution qua u/S. 4 of Dowry Prohibition Act, the same was left untouched and therefore, the petitioner has filed this petition assailing the prosecution relating to section 4 of Dowry Prohibition Act.
4. Learned counsel for the petitioners submits that bare reading of the allegations made in FIR do not constitute any offence punishable u/S. 4 of Dowry Prohibition Act.
5. For ready reference and convenience Sections 2 and 4 of Dowry Prohibition Act are reproduced below:-

"2. Definition of 'dowry' - In this act, 'dowry' means any property

or valuable security given or agreed to be given either directly or indirectly-

*(a) by one party to a marriage to the other party to the marriage; or
(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.*

Explanation II.-The expression 'valuable security' has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

[4. Penalty for demanding dowry.—*If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees: Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.]"*

The offence of dowry is made out when any person directly or indirectly demands dowry as defined in Section 4 of Dowry Prohibition Act from the parents or other relatives or guardian of a bride or bridegroom. The offence attracts punishment of imprisonment of minimum six months and maximum two years with fine which may extend to Rs. 10,000/-.

6. When the allegations made in the FIR are tested on the anvil of aforesaid provision, it is seen that prior to solemnization of marriage on 22/1/17, husband, father-in-law and one of the petitioners herein visited the parental house of prosecutrix on 6-7/11/16 for the purpose of fixing and arranging the marriage.

Thereafter marriage was held and as per demand of the husband and in-laws large amount of cash and ornaments of precious metal were gifted by the father of the prosecutrix. The allegations against the petitioners is that alongwith her husband, father-in-law and mother-in-law, both the petitioners also demanded dowry.

7. There are two instances revealed in the FIR. The first took place prior to marriage when planing and arrangement of marriage was discussed by the rival parties where presence of petitioners is alleged and the other instance is that large amount of cash and jewelry of precious metal was gifted by the father of prosecutrix to the husband and in-laws on the insistence *inter alia* of the petitioners.

8. The omnibus allegation of demand of dowry is alleged by the prosecutrix *inter alia* against the petitioners at the time of marriage which is said to have compelled the father of prosecutrix to part with an amount of Rs. 35 Lacs, jewelry, A.C., T.V. and household utensils in favour of husband and in-laws as dowry.

9. Though the allegation against the petitioners of demand of dowry is omnibus in nature but that by itself can not persuade this court to interfere with the prosecution launched by the prosecutrix where *prima facie* the foundational ingredients of offence of

demand of dowry appear to be made out. The definition of demand of dowry is couched in generic and wide language and is not as exhaustive and restrictive in its scope, sweep and application as the definition of cruelty contained in Section 498-A of IPC. The reason seems to be obvious. Legislature had kept the contours of "dowry demand", flexible and inclusive, so as to avoid any instances of dowry demand from going un-investigated, un-tried and if found proved un-punished. The Dowry Prohibition Act is a penal law enacted to remedy a social malady. Its provisions have rightly been allowed to remain generic to avoid technicality from coming in way of justice and to ensure achieving the object behind the Act.

10. In view of above, this court declines interference in the present petition as no ground of failure of justice seems to exist. Consequently, this petition stands dismissed.

(Sheel Nagu)
Judge
27/03/2019