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BHUSHAN KUMAR MEEN
v.
STATE OF PUNJAB AND ORS.
(Criminal Appeal No.1709 OF 2011)

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SEPTEMBER 2, 2011

[ALTAMAS KABIR, CYRIAC JOSEPH AND SURINDER
SINGH NIJJAR, JJ.]

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CODE OF CRIMINAL PROCEDURE, 1973:

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s. 482 – Petition seeking to quash criminal proceedings – Complaint by wife against her husband alleging commission of offence punishable u/s 498A – Women's Cell reporting that nothing had come out from the inquiry to prove the demand of dowry and issuance of threat – Subsequently, FIR registered – Petition of husband seeking to quash the FIR dismissed by High Court – Held: From the entire records available, it is clear that the complaint made by the wife did not make out a prima facie case to go to trial u/s.498-A IPC – The single Judge of the High Court did not appreciate the nature of the on and off relationship between the couple – The impugned order of the High Court is set aside and the FIR and all proceedings taken on the basis thereof are quashed – Penal Code, 1860 – s.498-A.

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The marriage of the appellant and respondent no. 2 was solemnized on 27.11.2004 and the couple went to Gajarat where the appellant-husband was employed. Subsequently, differences arose between them and the wife, respondent no. 2, on 12.5.2006 made a complaint to the Senior Superintendent of Police, Patiala (Punjab) that a criminal case be registered against the appellant for commission of offence punishable u/s.498-A IPC. The complaint was forwarded to the Women's Cell, which reported that nothing had come out from the inquiry to

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prove the demand of dowry and issuance of threat and the dispute was of a civil nature which did not call for any action by the police at that stage. However, subsequently, when an FIR was registered against the appellant for offence punishable u/s 498-A IPC, he filed a petition u/s 482 Cr.P.C. seeking to quash the FIR. The High Court dismissed the petition. A B

Allowing the appeal filed by the husband, the Court

HELD: From the entire records available, it is clear that the complaint made by respondent No.2 does not make out a prima facie case to go to trial u/s 498-A IPC and appears to have been filed by respondent No.2 based on misunderstandings between the parties prompting respondent No.2 to attack the appellant for something which is likely to have occurred during their stormy marriage. The Single Judge of the High Court did not appreciate the nature of the on and off relationship between the appellant and respondent No.2. In such circumstances, no offence u/s 498-A IPC had been made out against the appellant. The impugned order of the High Court is set aside and the FIR lodged by respondent No.2 against the appellant, and all the proceedings taken on the basis thereof, are quashed. [Paras 9-13] [849-B-G] C D E

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1709 of 2011. F

From the Judgment & Order dated 27.8.2008 of the High Court of Punjab & Haryana at Chandigarh in Criminal Misc. No. 13709-M of 2007.

Vijay K. Aggarwal, Babanjeet Singh, Shekhar Kumar for the Appellant. G

Gagan Gupta, Tarun Shankar B., Kuldip Singh, R.K. H

A Pandey, K.K. Pandey, Mohit Mudgil, H.S. Sandhu for the Respondent.

The Judgment of the Court was delivered by

ALTAMAS KABIR, J. 1. Leave granted.

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2. The appellant, who had all along been appearing in person, was represented by counsel, Mr. Vijay K. Aggarwal, at the time of final hearing of the appeal, which is directed against the judgment and order dated 27.8.2008 passed by the Punjab and Haryana High Court in CrI.M. No.13709 of 2007, dismissing the appellant's application under Section 482 Cr.P.C. for quashing the FIR No.9 dated 10.1.2007 of P.S. Patiala, filed by his wife, the respondent No.2 herein.

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3. The appellant's marriage was solemnized with the respondent No.2 on 27.11.2004 as per Sikh rites. After their marriage, the couple went to Gujarat where the appellant was employed with Patronet L.N.G. Limited in District Bharuch, Gujarat, and lived together as husband and wife, though no child was born out of the said wedlock. Subsequently, differences arose between the appellant and the respondent No.2 which resulted in a complaint being made by the respondent No.2 on 12.5.2006 to the Senior Superintendent of Police, Patiala, requesting that a criminal case be registered against the appellant under Sections 406 and 498-A IPC. The said

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complaint was forwarded to the Women's Cell in Patiala, which made a detailed inquiry into the allegations made by the respondent No.2 against the appellant. After such inquiry, the Women's Cell came to the conclusion that even in spite of the periodical differences between the appellant and the respondent No.2, they continued to maintain their relationship

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as husband and wife. From the report it appears that even after she left Gujarat, at the instance of her husband she returned to Gujarat in January 2006, and, thereafter, they visited Mount Abu, Bombay, Shirdi, Udaipur, Jaipur, Delhi and Gandhinagar, and both of them even went to Ambala to attend the retirement

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function of her mother-in-law, but after reaching Ambala she left for Patiala instead of going with the appellant to the Zirakpur. The Women's Cell also found that the respondent No.2 had great love for her parents and as a result she wanted to stay with them more often. Even on the question of dowry, it was found that the entire complaint had been exaggerated and that the respondent No.2 was determined to teach her husband and his family members a lesson by levelling serious allegations against them. The ultimate conclusion arrived at by the Women's Cell was that nothing had come out from the inquiry to prove the demand of dowry and issuance of threat, and that the dispute was of a civil nature which did not call for any action by the local police at the said stage.

4. Subsequently, a further inquiry was held by the Superintendent of Police, Patiala, who despite taking into consideration the report filed by the Women's Cell Patiala, came to the conclusion that the respondent No.2 had been harassed by the appellant and her father-in-law and mother-in-law for not meeting the demand of dowry and suggested action to be taken under Sections 406, 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961. However, on receipt of the said report, the Senior Superintendent of Police, Patiala, met the appellant and the respondent No.2 and was of the view that the matter did not appear to be a case of demand of dowry and the allegations needed to be checked again for evidence, though the ingredients of Section 498-A could be true. The Superintendent of Police, Patiala, was directed to re-verify and substantiate the evidence.

5. After further inquiry, the Superintendent of Police, once again came to the conclusion that the appellant had harassed the respondent No.2 which merited the registration of a case against the appellant under Section 498-A IPC. Upon the case being registered, the appellant filed Criminal Misc. No.13709 of 2007 under Section 482 Cr.P.C. for quashing the FIR. The matter was heard by the learned Single Judge, who, by his order

A dated 27.8.2008, dismissed the application filed by the appellant for quashing of the FIR and held that in view of the specific allegations contained therein, no ground for quashing the same had been made out and the appellant would be at liberty to set up the plea in defence at the appropriate stage of the trial.

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6. Aggrieved by the said order of the learned Single Judge, the appellant filed the Special Leave Petition out of which the present appeal arises.

C 7. Appearing for the appellant, Mr. Vijay K. Aggarwal, learned Advocate, submitted that at every stage the appellant had made sincere attempts to make the marriage with the respondent No.2 work, but at every stage such efforts of the appellant had been resisted. It was submitted that the appellant had agreed to live with the respondent No.2 in a house which was separate from the house in which his parents lived, since it was one of the complaints of the respondent No.2 that he was paying more attention to his parents than to her. According to the learned counsel appearing for the appellants, all the attempts made by the appellant to make the marriage work proved to be futile on account of the attitude of the respondent No.2, and even the complaint made against him was a fallout thereof, although, there was no truth whatsoever in any of the allegations made in the FIR.

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F 8. On behalf of the respondent No.2 an attempt was made to show that the appellant is a person who was only interested in harassing the respondent No.2 for bringing dowry. However, the said allegations do not bear scrutiny in view of the report filed by the Women's Cell, Patiala that the appellant and the respondent No.2 had visited various places all over the country together, which, according to the learned counsel for the appellant, clearly proves that the appellant and the respondent No.2 continued to maintain a normal relationship of husband and wife despite their moments of disagreement. Coupled with the above, is the observation of the Senior Superintendent of

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Police, Patiala, that after meeting the couple he was of the view that the matter did not relate to a dowry offence and that the dispute appeared to be of a civil nature. A

9. The complaint made by the respondent No.2 does not, in our view, make out a case under Section 498-A IPC and appears to have been filed by the respondent No.2 based on misunderstandings between the parties prompting the respondent No.2 to attack the appellant for something which is likely to have occurred during their stormy marriage. B

10. In our view, the learned Single Judge of the High Court did not appreciate the nature of the on and off relationship between the appellant and the respondent No.2, which caused him to dismiss the appellant's application under Section 482 Cr.P.C. on the ground that there were serious allegations in the FIR which have been registered against the appellant regarding his alleged cruelty and maltreatment of the respondent No.2 and even misappropriation by him. C D

11. We are unable to agree with the reasoning of the learned Single Judge, since from the entire records available it is clear that the complaint made by the respondent No.2 did not make out a prima facie case to go to trial under Section 498-A IPC. E

12. In such circumstances, we are inclined to accept Mr. Aggarwal's submissions that no offence under Section 498-A IPC had been made out against the appellant and the complaint was, therefore, liable to be rejected and the FIR was also liable to be quashed. F

13. The appeal is accordingly allowed. The impugned order of the High Court is set aside and the FIR lodged by the respondent No.2 against the appellant, and all the proceedings taken on the basis thereof, are quashed. G

R.P.

Appeal allowed.

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