

Omnibus allegations of cruelty on in-laws; a misuse of process of law & bogus implications of cruelty; a ground for civil action & False charges.

Introduction:

“A criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused.”

Law is a weapon against the crime prevailing in the society and not the tool to harass the innocent but these days we witness people using it to satisfy their revenge. The ultimate aim of our constitution is to provide equality, equity, social justice enshrined in our very preamble, the purpose of law is to uplift the lagging section of the society and to satisfy this purpose our legislators have made various special laws and specific sections to deal with the social evils, but what is being witnessed today is the misuse of this powerful tool by alleging the false charges, the malicious prosecution, the mental agony and harassment which the party or person falsely implicated face and this issue is not properly addressed, the question arises as to what will be the remedy addressed to such persons, is the monetary compensation sufficient to satisfy the social allegations faced by the innocent, our law presumes **‘a person innocent unless proven guilty’**, but the society presumes the accused convict as soon as the charges are alleged over such person. Our law talks on one hand about equity that is ‘balancing the rights of individuals’ and on the other hand lags somewhere to address the mental agony and societal perception which the accused and his family face as soon as the charges are levied against them. Article 21 of our Constitution guarantees an individual not merely a right to life but a right to life with dignity. A man and his family who is falsely implicated for the act which is not done by them is burdened with a cumbersome procedure of court as well as their social life is destroyed, is this not a violation to the very fundamental right i.e. Article 21, a persons right to dignified life is taken away even after he is acquitted by the court of law.

Issues Involved:

1- This article deals with the solutions/remedies which are available to persons upon whom allegations of cruelty are made i.e. Omnibus allegations, where there is no ascertainment of the role played by the accused involved in commission of an offence. The article also tries to bring

in limelight the gross misuse of process of law to settle personal scores and what remedies do such accused have.

2- The second issue which is dealt in this article is regarding the bogus implications or false charges being made on a person, how such allegations can be addressed and what is the available remedy for such false charges, how these charges becomes a ground for civil action.

3- Lastly this article also recommends for gender neutral sections and laws and even if special laws are being made by the legislators they should also address the issue of false implications and provide equitable remedy towards them.

Omnibus Allegations: A misuse of process of law

Omnibus allegations are those allegations where there is uncertainty as to the role played by each accused in the commission of an offence, the accusations made are so general in nature that the specific role of each accused is not clear to the court of law such allegations are generally seen in the allegations to husband or relatives of husband, subjecting women to cruelty covered under Section 498A of the Indian Penal Code (hereinafter referred to as IPC). This section is generally also levied when cases of unlawful demands or dowry are made out but it is not sine qua non to attract the charges of dowry.

Misuse/Abuse of process of law:

The law provides a process to its governing subjects which ensures the way to justice or a path which is fair, reasonable and non-arbitrary, but sometimes it becomes difficult for the court to ascertain the veracity of allegations, and this is seen in the case of omnibus allegations which are made with an intent to create a pressure on one party, and the party alleging the act, in order to rope up all the possible relatives of the accused in First Information Report (hereinafter referred to as FIR), such allegations are generally in the opinion of the court alleged to satisfy the personal issues and harass the people involved. Such allegations are considered to be the misuse/abuse of process of law, as law believed that a single innocent should not be punished.

Remedy Available

1- Quashing FIR : Inherent Powers of the High Court (Section 482), The Code of Criminal Procedure, 1973 (Hereinafter referred as Cr.P.C.)

The Hon'ble High Court possesses an extraordinary power to protect the abuse of process of law, the court can pass any order which is necessary to give effect to any order under the code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. Hence, the Hon'ble High Court possesses a power to quash FIR in case of omnibus allegations in which the part or role played by an accused in furtherance of an offence is not clear and it seems to the court that it is done in order to rope up the family members of the accused person.

Leading Judgments:

Kahkashan Kausar @ Sonam vs. State Of Bihar¹

The Court Observed that there existed no specific/distinct allegations against the in laws of the accused. "This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."

*Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances that **a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused**, and such an exercise must therefore be discouraged.*

By quoting such words the hon'ble court quashed the criminal proceedings against the said allegations.

¹ CRIMINAL APPEAL No. 195 of 2022 (arising out of SLP (CrI.) No. 6545 of 2020)

Arnesh Kumar Vs. State of Bihar and Anr.²

It was observed:-

*“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. **The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives.** The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grandfathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested.*

Guidelines in this Judgment

Applicable to offences with imprisonment of less than 7 years

- 1- The police officer cannot arrest an accused on its own when the offence prescribes an imprisonment for a term of less than 7 years or may extend to seven years.
- 2- When a case is under section 498-A of IPC the state governments shall instruct the police officers not to automatically arrest but if sufficient grounds exist under the parameters of section 41, Cr.P.C.
- 3- Grounds specified under Section 41(1)(ii) must also be checked, the reasons for arrest should be furnished by the police officer.
- 4- The Magistrate while allowing detention of accused shall look into the report provided by the police officer and only when the magistrate is satisfied he shall authorize detention.
- 5- The reasons for not arresting an accused shall be forwarded to the magistrate in a period of two weeks from the date of institution of the case with a copy to magistrate, be extended by the Superintendent of police with reasons recorded in writing.

² (2014) 8 SCC 273

6- A notice of appearance should be issued under section 41A of Cr.P.C. within two weeks from the date on which the suit was instituted.

7- Failure to comply with the guidelines shall render the police officer subject to departmental actions and the officer can also be made liable to contempt of court.

8- The authorized magistrate shall also be liable to departmental action by the appropriate High Court for authorizing detention without reasons in recording.

K. Subba Rao vs. The State of Telangana³

“6. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

Hence, the quest for truth, ensuring justice and punishing the guilty is the ultimate object of law which should not be deviated from, such generalized allegations also wastes the time of the courts which could be more specifically utilized in imparting justice to the needy ones and hence the court should not be lenient towards them as this is an abuse of the process of law and causes agony to the innocent.

³ (2018) 14 SCC 452

Bogus Implications of cruelty: Creating a ground for civil action & false charges:

Bogus Implications/False Allegations

There has been an emerging trend observed in the society of false allegations specifically in the cases of marriage disputes, as the court being the protector and up lifter of rights of individual is sympathetic towards the class of women being subject of harassment and cruelty. Dealing with false cases is also a big concern for the courts as it is their duty to ensure justice; such allegations are not only a challenge for the courts but also for the society as a whole. Bogus implications are those implications which are false in nature and do not exist in reality or are frivolous. Such allegation is being rampantly misused and cause mental as well as societal harassment/agonny to the accused.

Remedies available:

1- Section 13 (1) (i) of The Hindu Marriage Act, 1955

Ground for civil action: Divorce: False allegations amounts to cruelty

Cruelty: Cruelty in matrimonial cases refers to a conduct by either spouse with respect to each other that adversely affects the relationship between them, such cruelty may be in any form and against any of them i.e. husband or wife, it may include mental agony, intimidation, bogus litigation against the spouse etc.

When there is criminal prosecution of husband and his family members regarding dowry or cruelty and thereafter in trial the court finds them bogus such an act amounts to cruelty and the husband is entitled to apply for a decree of divorce in such cases.

Leading Judgment:

K. Srinivas vs. K. Sunita⁴

In this case the Hon'ble apex court held that filing a false or frivolous criminal complaint against husband or in laws form a ground for civil action i.e. Divorce. The court also observed that such cases happening cause distress and misery to the accused and his family members.

⁴ CIVIL APPEAL No. 1213 OF 2006, Decided On: 19-11-2014

2- Section 27 (1) (d), Special Marriage Act, 1954

A petition for divorce for people who have solemnized their marriage under the Special Marriage Act, 1954 can be filed under section 27 of the said act, where cruelty is a ground for divorce which could be raised by either of the spouses.

3- Section-211, IPC

False charge of offence made with intent to injure:

Any person who possesses an intention to cause injury to other person, and institutes or causes to be instituted any criminal proceedings against that person, or charges falsely any person with having committed such offence knowingly with no just or lawful ground for such action, is liable to be punished imprisonment of either description for a term which may extend to two years or with fine or both.

4- Section 499/500 IPC

Defamation

A party can institute a case for defamation, as there is societal disgrace caused to him by the intentional acts of the wife, and such acts are done with knowledge or the wife has reason to believe that it would harm the reputation of other person, such person shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.

5- Section 192 IPC, Fabricating false evidence

Section 193 IPC, Punishment for False Evidence

These sections are attracted when a person intentionally gives false evidence in any stage of judicial proceeding, or fabricates false evidences for the purpose of being used at any stage of proceeding, such person can be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

6- Section 340, Cr.P.C.

This Section deals with the provision of offence which affects the administration of justice, under this section if the court is of the opinion that in interest of justice an inquiry should be made out with regard to offence mentioned under section 195(1)(b) of Cr.P.C. which includes offence under section 193 IPC, the court can make complaint in writing and send it to magistrate having jurisdiction.

7- Section 227, Cr.P.C.

Discharge

The husband can also file an application claiming the charges levied by wife are bogus in nature and if after considering the records of case submitted the court considers no sufficient grounds exists for proceeding against accused he shall discharge the accused .

Recommendation:

1- The legislation should provide a equitable remedy to both the sides involved in a litigation, and look towards the formulation of laws & sections which are gender neutral, and even if there are special legislations it should be made keeping in mind its misuse and malafied application, which could ruin the life of an innocent person. It is necessary to create a harmonious construction of laws which focus more towards the remedial aspect rather than cumbersome procedural aspect, balancing of rights is important for a law to impart justice on practical grounds.

Subrata Roy Sahara vs. Union of India⁵

The Hon'ble Supreme court observed,

*"The Indian judicial system is grossly afflicted with frivolous litigations. Ways and means need to be evolved to deter litigants from their compulsive obsession towards senseless and ill-considered claims."*⁶

⁵ WRIT PETITION (CRIMINAL) NO. 57 OF 2014, Decided On : 6-05-2014

⁶ (2014) 8 SCC 470

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2- Section 498A IPC| Husband's relatives cannot be forced to undergo trial in absence of specific allegations of dowry demand..., by By Prachi Bhardwaj...
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4- 'Abuse Of Process, Frivolous Litigation' : Supreme Court Affirms Cost Of Rs 5 Lakhs Imposed On Litigant Mehal Jain, available at: ['Abuse Of Process, Frivolous Litigation' : Supreme Court Affirms Cost Of Rs 5 Lakhs Imposed On Litigant \(livelaw.in\)](#), (visited last on June 30, 2023)