

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

23.

OA 5112/2024 with MA 5328/2024

Mrs Nivisha Panwar ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Subash Chand Tomar, Advocate  
For Respondents : Mr. Sameer S. Sinha, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
10.12.2024

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Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant seeks an order/direction to the respondents to initiate a Court of Inquiry against Sqn Ldr Sachin Kumar working in the Accounts Branch of AFCAO, Air Force station, Subroto Park, New Delhi on the ground that he has taken dowry at the time of marriage and also with regard to committing cruelty upon the applicant- wife of the respondent No.4 for fulfillment of dowry, the prayer made in Para 8 reads as under:-

“A. Issuance order(s)/direction(s) to the respondents to conduct Court of enquiry against the Sqn Ldr Sachin Kumar (S No 33585-T) of Account, AFCAO, Air Force Station Subroto Park, New Delhi 110010, for committing offence and taking dowry at the time of

marriage, being a public servant and further continuously torturing the Applicant to fulfill illegal demand of dowry, and further to avoid any delay in enquiry, which may leads to tempering of evidence or may cause delay in justice., and

B. Grant any other/Further relief which this Hon'ble Tribunal may deem, fit and proper in the facts and circumstances of the case in the interest of justice."

2. Facts in nutshell indicate that the applicant was married to Sqn Ldr Sachin Kumar on 22.02.2022 and it is her contention that father of the applicant gave dowry of Rs. 51 lakh cash including 21 Lakh for four wheeler and gold jewellery etc. as detailed in the petition. However, now it is the case of the applicant that after marriage, the respondent No-4, his mother, brother and other family members are torturing the applicant and demanding more dowry. It is said that the respondent no.4 is a public servant serving in the Indian Air Force, therefore, by demanding dowry and accepting dowry he has committed an offence. For the same, the applicant wants Court of Enquiry to be conducted against respondents and he be punished for service misconduct. However, records indicate that based on the same allegation, applicant has lodged a FIR under Section 154 of the Code of Criminal Procedure as is existed being FIR number 0381 on 02.11.2024 at 17.33 hr for committing offence under Section 74, 76, 85 115(2) and 352 of the Bhartiya Nyay Sanhita and under Section 3 and 4 of the Dowry Prohibition Act of 1961. The

police authorities conducted medical examination of the applicant in government hospital and the FIR and the medical documents has been brought on record as annexure A-3 (Collectively). In the FIR the proposed accused are applicant's husband Sqn Ldr Sachin Kumar, her mother in law, Madam XYZ, her brother in law, and her sister in law. The FIR has been registered as indicated hereinabove by the police station and investigation is under process. The applicant now wants this Tribunal to exercise its jurisdiction under Section 14 and direct for conduct of a Court of Enquiry.

3. Respondent Nos. 1-3 raised a preliminary objection and submit that this application is not maintainable. It is their contention that the jurisdiction available to this Tribunal is with regard to adjudication of disputes pertaining to service matters as are defined under Section 3(O) of the Armed Forces Tribunal Act, 2007 and the so called criminal offence committed by the respondent no.4 against the applicant does not come within the purview of the service matters which can be adjudicated under Section 14 of the Armed Forces Tribunal Act, 2007. It is their contention that this is a family dispute/marital discord between the applicant and respondent No.4. The police is already investigating into the matter no criminal offence has been committed with regard to service of respondent No.4 in the Air Force which can be termed as an offence for which Court of

Enquiry can be conducted under the Air Force Act and the rules framed thereunder and therefore, for a private matrimonial dispute Jurisdiction is not available to this Tribunal and no Court of Enquiry as prayed for can be directed particularly, when the police is already seized of the matter and criminal cases have been registered and the same is under investigation.

4. Heard learned counsel for the parties. We are of the considered view that the dispute in question, arose out of matrimonial discord, is a marital dispute for which a criminal offence has already been registered in appropriate police station under various provisions of the BNS and DPA the criminal justice system has already been put into motion and investigation by the police is going on and therefore invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the prayer made in this application in the form of a mandamus to the respondent Nos. 1-3 is beyond the jurisdiction of this Tribunal and cannot be considered.

5. In our considered view this application is totally misconceived, once the matter is under investigation by the police authorities under the criminal law, a Court of Enquiry cannot be directed, as a Court of Enquiry under the Air Force Act is nothing but an investigating process conducted under the statutory rules for a purpose for putting an employee to trial in various forms of Court martial as are contemplated in the Air Force Act. On the

same facts and circumstances and for the same offence, there cannot be two separate investigating processes, one under the criminal law and second in the form of the Court of Enquiry under the Air Force Act.

6. That apart, we are of the considered view that the dispute in question canvassed by the applicant does not come within the purview of the service matters as defined under Section 3(O) of the Armed Forces Tribunal Act, 2007 and we cannot exercise jurisdiction of this Tribunal. This tribunal is a creation of Statute, jurisdiction is specifically conferred by the statute and in this matter as this Tribunal lacks jurisdiction to order an investigation by way of a Court of Enquiry into criminal offence that has been committed by respondent No.4, the application being misconceived is dismissed.

7. OA stands dismissed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

/Priya/