



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.17472 of 2019 (O&M)
Date of Decision:21.05.2024

Ram Kumar and others ... Petitioners
Versus
State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.S. Verma, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Haryana.

Mr. Ranjit Sharma, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of the FIR No.377 dated 09.10.2014 registered under Sections 406, 498-A, 420, 120-B IPC registered at Police Station City Tarn Taran, District Tarn Taran and all subsequent proceedings arising therefrom.
2. In brief, the facts are that respondent No.2 registered the FIR (supra) against the petitioners herein, who was married to Sushil Kumar son of petitioners No.1 and 2 and brother of petitioner No.3 alleging therein that out of her wedlock with Sushil Kumar, a female child was born. After three months of marriage, accused started harassing her on account of bringing insufficient dowry and for not giving a car in the marriage. When she was not able to fulfill their demands, petitioners had thrown her out of the matrimonial house on 13.04.2014. She made a phone call to the police control room and in front of police officials, her maternal uncle told that they will settle the matter amicably. Thereafter, her maternal uncle brought her to his house where she stayed overnight and next



morning, she was sent back to her matrimonial house by saying that the matter will be settled amicably in the presence of her parents. But neither her parents were called nor the matter was settled, rather they arranged a rented accommodation on the pretext of getting the house repaired whereas they have two other houses as well. Petitioners also brought her to court complex a number of times after giving her beatings and obtained her signature on fake affidavits. In August, she came to her paternal home to celebrate rakhi festival and during said period, petitioners in connivance with each other sent her husband abroad and when she called her husband, his phone came to be switched off. On asking about her husband, petitioners informed her that her husband will come back soon. Thereafter, she stayed at her matrimonial home for two months. She received a number of calls from her husband, who assured her to come back and told her to get admitted their daughter in a reputed school and also sent money for expenses of the daughter. It was also alleged that her daughter went to meet her grandmother after giving her final exams in March, 2011 and since then, she was not allowed to meet her daughter.

5. During the pendency of the instant petition, petitioner No.1 has expired and the cause of action survives only qua petitioners No.2 and 3.

6. Learned counsel for the petitioners *inter alia* contends that petitioners have been falsely implicated in the present case. In the FIR (supra), after conducting a thorough investigation, the police found petitioners innocent and put them in column No.2 and the challan was presented only against Sushil Kumar husband of respondent No.2. However, vide impugned order dated 23.01.2017, petitioners have been summoned to face trial as additional accused on the application filed under Section 319 Cr.P.C. by the prosecution. It is further



contended that after few months of marriage, respondent No.2 along with her husband started demanding their share and Rs.5 lakhs to start their own business and since respondent No.2 along with her husband was creating ruckus every day, petitioners gave Rs.1.5 lakhs to respondent No.2. After taking money, respondent No.2 along with her husband left the house of petitioners on 09.01.2009 and started living in a rented accommodation at House No.3407, Gurucharan Park, New Model Town, Ludhiana and therefore, the allegations levelled by respondent No.2 in the FIR (supra), which was registered on 09.10.2014 of giving beatings to her for demand of dowry are totally frivolous. The allegations levelled in the FIR are vague and omnibus as there are no details of date, time and place of alleged incident of demanding dowry. Furthermore, petitioners No.1 and 2 have already disowned their son and respondent No.2 from their movable and immovable properties. In this regard, reliance is placed upon the notice published in the newspaper dated 09.02.2009 (Annexure P-2). Furthermore, on the complaint made by the petitioner No.1, a detailed enquiry was got conducted by the Superintendent of Police (Investigation) wherein the allegations levelled by respondent No.2 against petitioners were found false and they were found innocent.

7. Per contra, learned State counsel and the counsel appearing for respondent No.2 contended that respondent No.2 while appearing in the witness box as PW-1 has specifically named the petitioners as accused and duly corroborated the allegations levelled in the FIR (supra) and therefore, they have rightly been summoned to face trial. It is also contended that the allegations levelled in the FIR (supra) are specific against the petitioners and therefore, the instant petition deserves to be dismissed.



8. Having heard learned counsel for the parties and after perusing the record of the case, this Court finds merit in the arguments raised by the counsel appearing for the petitioners. The allegations levelled against the petitioners in the FIR (supra) are general, vague and omnibus. A perusal of the FIR (supra) indicates that no specific role is attributed to the petitioners except casual reference of their names mentioned in the complaint given to the police which formed the basis for registration of the FIR (supra). There is a tendency to involve the entire family members in the domestic quarrel, which erupts between the husband and wife and therefore, without allegation of active involvement in the matter, cognizance against them is not justified. In order to prosecute the near and dear relatives of the husband of the complainant, the allegations ought to be specific and not omnibus and vague. A two Judge Bench of the Hon'ble Supreme Court in ***Geeta Mehrotra Vs. State of U.P. (2012) 10 SCC 741*** speaking through Justice Gyan Sudha Misra has held as under:-

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should



have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that: (SCC p. 698, para 12)

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their ‘young’ days in chasing their ‘cases’ in different courts.”

A two Judge Bench of the Hon’ble Supreme Court in ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others (2022) 6 SCC 599*** speaking through Justice Krishna Murari has held as under:-

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in



misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. 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.”

9. A two Judge bench of the Hon’ble Supreme Court in ***Preeti Gupta v. State of Jharkhand (2010) 7 SCC 667*** quashed the complaint against the sister-in-law of the complainant noting that the sole purpose of filing the complaint was to humiliate her and allowing criminal prosecution to continue would amount to an abuse of process of law. Speaking through Justice Dalveer Bhandari, the following was observed:

“34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. 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.

35. 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.”

A two Judge bench of the Hon’ble Supreme Court in **Girdhar Shankar Tawde v. State of Maharashtra (2002) 5 SCC 177**, speaking through Justice Umesh C. Banerjee, opined as follows:

“18... In any event the wilful act or conduct ought to be the proximate cause in order to bring home the charge under section 498-A and not de hors the same. To have an event sometime back cannot be termed to be a factum taken note of in the matter of a charge under section 498-A. The legislative intent is clear enough to indicate in particular reference to Explanation (b) that there shall have to be a series of acts in order to be a harassment within the meaning of Explanation (b). The letters by themselves though may depict a reprehensible conduct, would not, however, bring home the charge of section 498-A against the accused. Acquittal of a charge under section 306, as noticed hereinbefore, though not by itself a ground for acquittal under section 498-A, but some cogent evidence is required to bring home the charge of section 498-A as well, without which the charge cannot be said to be maintained...”



10. Furthermore, a perusal of the records of the case reveals that respondent No.2 along with her husband started living separately from the petitioners on 09.01.2009 and they were disowned by petitioners No.1 from his all movable and immovable properties on 09.02.2009 as is evident from the notice published in the newspaper in this regard whereas the FIR in question was registered in the year 2014. A three Judge bench of the Hon'ble Supreme Court in *Abhishek v. State of Madhya Pradesh 2023(4) R.C.R.(Criminal) 239* quashed the FIR under Section 498-A of the IPC against the mother-in-law and brother-in-law of the complainant and observed that the allegations are mostly general and omnibus in nature without any specific details as to how and when her brother-in-law and mother-in-law who lived in different cities altogether subjected her to harassment for dowry. Such allegations were found to be incongruous and difficult to comprehend. Speaking through Justice Sanjay Kumar, the scope of Section 482 Cr.P.C. qua quashing of FIR stemming from offence under Section 498-A was also deliberated upon and the following observations were made:

12. The contours of the power to quash criminal proceedings under Section 482 Cr.P.C., 1973 are well defined. In V. Ravi Kumar vs. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu and others [(2019) 14 SCC 568], this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In M/s. Neeharika Infrastructure (P). Ltd. v. State of Maharashtra and others [Criminal Appeal No.330 of 2021, decided on 13.04.2021], a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr.P.C., 1973 It was observed



that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab (AIR 1960 SC 866) and State of Haryana and others v. Bhajan Lal and others [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

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15. Earlier, in Neelu Chopra and another v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

16. Of more recent origin is the decision of this Court in Mahmood Ali and others v. State of U.P. and others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C., 1973. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C., 1973 or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of



wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”

11. Furthermore, after conducting a thorough investigation, allegations levelled against the petitioners were found false. No fresh material is brought on record by the prosecution in the application moved under Section 319 Cr.P.C., which states that there is sufficient evidence to summon abovesaid persons as additional accused. Mere statement of the complainant reiterating the contents of FIR/complaint not substantiated by any credible material, cannot be a ground to invoke the discretionary and extraordinary power of this Court to summon an additional accused under Section 319 Cr.P.C. In the absence of any material suggesting existence of more than *prima facie* case available during the course of trial of an offence, courts ought to refrain themselves from exercising its discretionary and extraordinary power under Section 319 Cr.P.C. The Constitution Bench of the Hon’ble Supreme of India in ***Hardeep Singh Vs. State of Punjab (2014) 3 SCC 92*** has held that the power under Section 319 Cr.P.C is a discretionary and an extraordinary power. It is to be exercised only on the basis of the material available before the Court during a trial.

12. The trial Court must evaluate the material against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already



facing trial. In the absence of any credible material, the power under Section 319 Cr.P.C. ought not to be invoked. A two Judge Bench of the Hon’ble Supreme Court in Juhru and others Vs. Karim and another (2023) 5 SCC 406 speaking through Justice Surya Kant, while relying upon *Hardeep Singh’s case* (supra) has held as under:-

“16. It is, thus, manifested from a conjoint reading of the cited decision that power of summoning under Section 319 CrPC is not to be exercised routinely and the existence of more than prima facie case is sine qua non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section 319 CrPC, and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 CrPC ought not to be invoked.

13. In view of the aforesaid facts and circumstances, the instant petition is allowed and FIR No.377 dated 09.10.2014 registered under Sections 406, 498-A, 420, 120-B IPC registered at Police Station City Tarn Taran, District Tarn Taran and all subsequent proceedings arising therefrom including the summoning order dated 23.01.2017 are quashed qua petitioners No.2 and 3.

(HARPREET SINGH BRAR)
JUDGE

May 21, 2024

Pankaj*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No