

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-10381 of 2015.
Decided on:-07.10.2015.

Parvinder Kaur.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Parvinder Singh, Advocate for the petitioner.
Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J. (ORAL)

Petitioner Parvinder Kaur has filed the present petition under Section 482 Cr.PC for setting aside the order dated 20.11.2014 passed by learned Sessions Judge, Shaheed Bhagat Singh Nagar whereby the summoning order dated 6.10.2012 passed by Judicial Magistrate 1st Class, Shaheed Bhagat Singh Nagar qua respondent No.2 Nirmal Singh has been set aside.

Briefly stated, the petitioner has filed a complaint under Sections 406, 498-A and 120-B IPC against the accused including the respondent No.2. As per the complaint, the marriage between the petitioner-complainant and Gurmeet Singh took place on 20.12.2009. About Rs.6 lacs were spent on the marriage by the complainant side. However, about 15-16 days prior to the date of marriage, the accused started raising the demand of

dowry articles and further directed the complainant that the marriage is to take place in the palace of their choice. Since there was no option left to the complainant except to admit the illegal demand of the accused, the complainant under the compelling circumstances agreed all the conditions i.e. venue of marriage and giving of dowry. In the complaint, which has been filed against the husband, father-in-law, mother-in-law, brother-in-law, sister-in-law and respondent No.2, who is maternal uncle of the husband, it has been averred that respondent No.2 was given Rs.3,100/- in cash, one golden ring of 1 tola, one blanket for use by the accused and Rs.45,000/- in cash for purchase of motorcycle for exclusive use of the complainant after purchasing the same.

After the marriage, the complainant was given mental and physical torture and it was disclosed to her that she has been married to Gurmeet Singh (husband) for the reason that she will serve all the accused after the husband leave for the foreign country. The dowry articles were entrusted to the accused for the exclusive use of the complainant, but the same were not used by her, rather, were misappropriated by the accused.

In order to prove her case, the complainant examined her father Gurmail Singh as CW1, herself as CW2 and Ram Ratan, Lamberdar of village Bharta Khurd as CW3.

On the basis of their testimony, the trial Court vide order dated 6.10.2012 has ordered summoning of all the accused including respondent

No.2, who is maternal uncle of accused Gurmeet Singh.

The order dated 6.10.2012 passed by the trial Court was challenged by way of revision petition before learned Sessions Judge, Shaheed Bhagat Singh Nagar, who vide order dated 20.11.2014 has set aside the same qua respondent No.2 Nirmal Singh and dismissed the complaint against him.

In this petition, the petitioner-complainant has impugned order dated 20.11.2014 passed by learned Sessions Judge, whereby order dated 6.10.2012 passed by learned trial Court has been set aside.

Learned counsel for the petitioner-complainant has contended that there are specific allegations against respondent No.2 Nirmal Singh regarding misappropriation and demand of dowry. He has further contended that at the time of summoning the accused, the preliminary evidence of the witnesses was required to be considered. The jurisdiction of the revisional Court was very limited to the extent that the evidence on record was appreciated and if there is any perversity in the order, only then the revisional Court can interfere in the order. He has further submitted that learned revisional Court has nowhere discussed the evidence on record in the order dated 20.11.2014.

I have heard learned counsel for the petitioner.

The relevant para Nos.6, 7 and 8 of the impugned order dated 20.11.2014 passed by learned Sessions Judge read as under:

“6. From the testimony of CW-1 Gurmail Singh father of Parvinder Kaur and her own testimony as CW-2 and that of CW-3 Ram Rattan Lambardar, one cannot find enough of accusations against accused Nirmal Singh asking him to stand trial. In **Pepsi Foods Ltd v. Special Judl Magistrate 1997(4) RCR (CrI) 762(SC)**, and in **PNB Vs Surinder Parsad Sinha AIR 1992 SC 1815** it was held that Judicial Process should not be an instrument of oppression or needless harassment. The Court should be circumspect and judicious in exercising discretion and should take all the relevant facts and circumstances into account before issuing process lest it would be an instrument in the hands of a private complainant of vendetta to harass the person needlessly.

7. Accusations against accused/revision petitioner Nirmal Singh are absurd to the extent of being unacceptable and unbelievable. One cannot see as to why services of Nirmal Singh were required by the complainant or her parents for being handed over cash for purchasing a motorcycle in the name of the complainant. It was so simple a job which any body from the family could have performed especially when the required amount was ready with them. In **Asha Devi v. Suman Lata 1997(2) RCR (CrI) 667** Hon'ble Punjab and Haryana High Court has observed that averments made in the complaint exhibited that the petitioner was dragged on account of relationship with her husband and that such attitude and conduct on the part of wife should not be allowed to be encouraged by the Court. In **Jasvinder Singh vs. State of Haryana 1997(2) RCR(CrI) 699**, it was observed that when marriage is shattered, there is tendency of bride to implicate all

*relations of husband. In **Gurmeet Singh v. State of Haryana 1993(1) RCR 354**, where the allegations were that furniture and some other articles were entrusted to wife's husband's brother and it was held that it is neither custom nor the practice to give such type of gifts to husband's brother and their prosecution was quashed. In **Kulwinder Singh Vs. Asha Rani 2002 (2) RCR (Crl.) 359** and **Mukesh Rani Vs. State of Haryana 2002 (1) RCR 163** it was held that tendency to involve all the relatives of the husband when relations between the husband and the wife become strained should not be encouraged.*

8. *Appraised thus, this Court is of the considered opinion that the impugned order asking Nirmal Singh to stand trial cannot be lawfully sustained with being perverse and arbitrary and exercising revisional criminal jurisdiction, the impugned order qua Nirmal Singh is hereby set aside and complaint against him is ordered to be taken as dismissed.”*

Thus, a bare perusal of the above paragraphs reveals that the impugned order does not warrant any interference for the reason that the entrustment of Rs.45,000/- to respondent No.2 for the purchase of a motorcycle for the exclusive use of the complainant cannot be accepted as the respondent No.2 is in distant relation as compared to other accused named in the complaint. Further, there is no allegation of beating the complainant against respondent No.2.

This Court also cannot ignore the fact that it has become a trend to involve as many relatives of the husband as the complainant can, even if

they are not directly or indirectly benefitted by such entrustment. When there are other family members of the husband, it is unbelievable that the respondent No.2, who is his maternal uncle, would be handed over such amount for the purchase of a motorcycle in the name of the complainant. Moreover, the complainant has examined CW3 Ram Ratan Lamberdar of village Bharta Khurd. Though the allegations against the husband and other family members have been made in the statement of CW3, but there is no whisper of allegation against respondent No.2. The marriage between the parties took place on 20.12.2009, whereas the complaint was filed on 21.5.2012. Therefore, the extraordinary delay in filing of the complaint raises serious doubt about the truthfulness of allegations made against respondent No.2.

The coordinate Bench of this Court in ***Sandeep Singh Versus State of Punjab and another 2014(10) RCR (Criminal) 2424*** while allowing the petition for quashing the FIR under Sections 406 and 498-A IPC has held that it is a common knowledge that an unhealthy practice and tendency is developing for roping all the relatives of the in-laws of the deceased or victim wives in the matters of harassment on account of demand of dowry. It was further held that it has become compulsive necessity for the Courts to proceed with care and caution so that no innocent person was forced to face criminal trial.

Thus while taking into consideration the statement of CW3

Ram Rattan Lamberdar as well as the nature of allegations levelled against the respondent No.2, this Court does not find any illegality in the order dated 20.11.2014 passed by learned Sessions Judge.

In view of the above, I find no merit in the present petition and the same is dismissed.

October 07, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE