

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

Crl. Misc. No. M-1160 of 2015

Date of decision : 13.10.2015

Jangir Singh

..... Petitioner

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No

2. To be referred to the Reporters or not? Yes/No

3. Whether the judgment should be reported in the digest? Yes/No

Argued by: Mr. Neeraj Madaan, Advocate
for for the petitioner.

Mr. K.S. Aulakh, AAG Punjab.

None for respondent No.2.

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No. 149 dated 01.07.2014, registered under Sections 406 and 498-A IPC at Police Station Sadar Jalalabad and subsequent proceedings.

The facts, necessary for disposal of the instant petition are being noticed first.

Complainant-respondent No.2 Gurmeet Kaur was married to Sukhmander Singh on 04.04.2010. The petitioner is the brother of the father-in-law of Gurmeet Kaur. Gurmeet lodged the FIR against her husband, brother-in-law, his wife, mother-in-law and the present

petitioner. It is lengthy complaint running into number of pages, but the sum and substance whereof was that the accused were not satisfied with the dowry given in the marriage and they harassed and maltreated her and asked her to bring more dowry. The allegations therein, so far as present petitioner are concerned, are only being referred. It was alleged that the petitioner was entrusted with one gold ring, sewing machine, one almirah, one blender, 10 summer bedding, 10 winter bedding, 1 buffalo, 2 gents suits, 2 trunks for clothes, 150 steel utensils and some other household goods by the parents of the complainant and was asked to hand over this istridhan to the complainant on her demand after reaching the matrimonial house. Further allegations are that on the instigation of other accused, husband of the complainant had beaten her and was given beatings by the other accused as well. The accused were given Rs.10,000/- at one point of time, but they did not mend their ways and asked her to bring a share in the property left by her deceased father. She was turned out of the matrimonial home and on 26.05.2014 they finally refused to return her istridhan.

On these broad allegations, FIR was registered. An enquiry into the matter was conducted and finding the involvement of the accused and final report was submitted to the Court.

Quashing has been sought, inter alia, on the ground that petitioner is residing separately and had no interference in their life. No specific role had been assigned to him and no offence was made

out against him.

In the reply filed on behalf of State, it was averred that after investigations, involvement of the accused was found and the challan was filed and petitioner had already been charge-sheeted. It was urged that there are specific allegations against the petitioner.

Notice issued to respondent No.2 had been received back with the report of refusal. Service was effected through affixation. But none had appeared on her behalf.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for the petitioner has urged that the petitioner is the brother of the father-in-law and was living separately and had no concern with the matrimonial life of the complainant and it cannot be expected that he had been entrusted with any istridhan of the complainant or he would be a beneficiary of the demand of share in property. According to him, no specific instance of harassment had been given. He had contended that the petitioner has been roped in falsely to settle scores and to widen the net.

Learned State counsel had submitted that there were specific allegations against the petitioner who was found instrumental in the harassment and maltreatment of the complainant. It was submitted that charge had been framed.

The question that arises is whether the FIR and the subsequent report under Section 173 Cr.P.C. and subsequent charge

sheet can be quashed in exercise of the powers under Section 482 Cr.P.C.

The Hon'ble Supreme Court in the case of **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)**, had observed that a tendency had developed for roping all the relations in dowry cases and if it was not discouraged, it was likely to affect the case of the prosecution even against the real culprits.

In **Anita & Ors. Vs. State of Punjab, 2003(4) RCR (Criminal) 313**, when a first information report was lodged by the wife under Sections 498-A and 406 of the Indian Penal Code against the entire family members of the husband, this Court exercising its powers under Section 482 Cr.P.C. had quashed the FIR and had observed that there was a tendency to involve all the relatives of the husband when the relations between the husband and the wife become strained.

Similarly, in the case of **Harjinder Kaur & Ors. Vs. State of Punjab, 2004(4) RCR (Criminal) 332**, a criminal complaint was filed under Sections 498-A and 406 IPC against the husband, his parents and 5 sisters. The proceedings qua sisters were quashed as the allegations against the sisters were found to be vague and exaggerated and made to rope in each and every relation of the husband.

In **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR(Crl.) 527**, the Hon'ble Apex Court observed that the fact that

Section 498-A IPC is a cognizable and non-bailable offence had lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

In the case of **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 2010 AIR (SC) 3363** the Hon'ble Apex Court observed that a serious relook of the entire provisions of Section 498-A IPC was warranted by the legislation. It was observed that exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a very large number of cases. In that case the Hon'ble Apex Court quashed the criminal proceedings against brother and sister of husband, living separately.

In the instant case, from a perusal of FIR, it is abundantly clear that the allegations against the petitioner are general in nature and are omnibus. There is no specific denial to the averment that the petitioner was living separately. His ration card, Annexure P-2 is on record, wherein names of his wife, son and mother are mentioned. It cannot be accepted that he would interfere in the life of the couple. Even if the issue of separate residence is accepted, the FIR reveals that the petitioner was handed over some articles by the parents of the complainant at the time of marriage and was asked to hand it over to complainant on reaching the matrimonial house. The

marriage took place on 04.04.2010 and it is surprising that the complainant kept mum for four years and never demanded her articles back. It was only at the time of lodging the FIR, the complainant came up with the plea of entrustment of istridhan and its misappropriation. It cannot be believed that a distant relation like the petitioner was handed over with these articles. Further, a bare perusal of FIR would reveal that no specific date or time was mentioned therein when the complainant was harassed, maltreated or beaten up by the husband at the instance of the petitioner. No MLR has been placed on record. In absence of any specific instance or overt act, it cannot be believed that on the instigation of the petitioner, complainant was harassed and beaten up. It cannot be believed that petitioner would be a beneficiary from the alleged demand of share in property. The allegations are vague and general in nature and appears to have been made by the complainant out of the frustration who failed to maintain her matrimonial alliance. There is a general tendency to involve all members of the in-laws family in matrimonial disputes.

The plea of the State about the non-maintainability of the petition after framing of charge can very well be answered by referring to **Satish Mehra Vs. State of N.C.T. of Delhi & Anr. AIR 2013 SC 506**, wherein it has been observed thus:-

“15. The power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in

case the allegations made in the FIR or the criminal complaint, as may be, prima facie do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be exercised sparingly and only if the attending facts and circumstances satisfies the narrow test indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed. However, if so warranted, such power would be available for exercise not only at the threshold of a criminal proceeding but also at a relatively advanced stage thereof, namely, after framing of the charge against the accused. In fact the power to quash a proceeding after framing of charge would appear to be somewhat wider as, at that stage, the materials revealed by the investigation carried out usually comes on record and such materials can be looked into, not for the purpose of determining the guilt or innocence of the accused but for the purpose of drawing satisfaction that such materials, even if accepted in its entirety, do not, in any manner, disclose the commission of the offence alleged against the accused.”

Furthermore, in the case of **State of Haryana & Ors. Vs.**

Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC), the Hon'ble Supreme Court had observed that where the proceeding is instituted with an ulterior motive or where the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/ FIR

In the considered opinion of this Court, the allegations made in the complaint are absurd and improbable and warrants interference by this Court for quashing all the proceedings against petitioner with an object to meet the ends of justice and prevent abuse of the process of the Court.

In view of the discussion made above, the instant petition is allowed. The impugned FIR and consequent proceedings taken therein, against the petitioner, are quashed.

13.10.2015

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**(ANITA CHAUDHRY)
JUDGE**