

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

**Crl. Misc. No. M-13957 of 2015 (O&M)
Date of decision : 15.12.2015**

Bheem Sain

... 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

Present: Mr. J.S. Khiva, Advocate
for for the petitioner.

Mr. Sidakmeet Sandhu, AAG Punjab.

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No. 157 dated 12.11.2014, registered under Sections 406 and 498-A IPC at Police Station Women Cell, Patiala and subsequent proceedings.

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

Complainant-respondent No.2 Baljinder Kaur was married to Charanjit Singh on 06.07.2008. The petitioner is the Massar (husband of mother's sister) of Charanjit Singh. Baljinder Kaur lodged the FIR against her husband, mother-in-law, sister-in-laws, maternal grand-father and the present petitioner. In the complaint, it was alleged that after the marriage, the accused used to harass and

maltreat her for bringing more dowry. On 08.08.2008 her hands were burnt and was left at her parental home. Next day the accused tendered apology and she was taken back to her matrimonial home. On 05.09.2008 she was given beating and a demand of Rs.3,50,000/- was raised. Next day she was again beaten up by the accused. On 14.09.2008 the accused reiterated their demand and on the instigation of other accused, including the petitioner, she was given beatings by her husband. On 15.09.2008 she was left at her parental home by the mother-in-law. The dowry articles had been entrusted to the accused at the time of marriage with an assurance to hand it over to the complainant on her demand, were misappropriated by the accused and were not returned.

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

The petitioner seeks quashing of the FIR, inter alia, on the ground that petitioner was a Government employee residing separately at a distance of about 70-80 Kms from the matrimonial home of the complainant and had no interference in their life and the allegation of instigation were vague. It was pleaded that the complainant was married in 2008 and she returned to her parental home on 15.09.2008 and the FIR was lodged on 12.11.2014 and no specific role had been assigned to him.

In the reply filed on behalf of State, it was averred that

during investigations, it was found that the petitioner had played the role of head of family of Charanjit Singh as the father had expired and he used to manage all the affairs of the house. It was pleaded that on the instigation of the petitioner and others, Charanjit Singh used to beat the complainant and the petitioner and other accused raised a demand of Rs.3,50,000/-. It was pleaded that supplementary statement (Annexure R-1/T) was made on 17.11.2014. It was pleaded that there were specific allegations against the petitioner and a gold ring was entrusted to him.

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

Learned counsel for the petitioner has urged that the petitioner is the *massar* of the husband 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 *istridhan* 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 was a Government employee and an easy target and had 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 final report had been submitted that the petitioner can raise all the pleas before the trial Court.

The question that arises is whether the FIR and the subsequent report under Section 173 Cr.P.C. 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. In the FIR, he had been shown to be a resident of village Bikhri of District Mansa while the matrimonial home of the complainant was in village Phul, District Bathinda, which is at a distance. There is no specific denial that the petitioner is posted as J.T. Operator at Sub Division Mansa in Water Supply and Sanitation

Department. It cannot be accepted that he would interfere in the life of the couple. The complainant lived with the husband for period of two months or so in the matrimonial home. In the petition filed by the complainant under Section 125 Cr.P.C., she had pleaded that she had been living at her parental home since 15.09.2008. The allegation of dowry revolves around demand of Rs.3,50,000/- from the complainant. It cannot be expected that a distant relative residing separately like the petitioner would be a beneficiary. Apart from separate residence, though there is no specific averment regarding entrustment to the petitioner in the FIR. A supplementary statement was made later which is an improvement. The allegation was that a gold ring was handed over to her at the time of marriage and he was asked to hand it over to complainant on demand. The marriage took place on 06.07.2008 and FIR was lodged on 12.11.2014. It is surprising that the complainant kept quiet for over six years and never demanded it back. Had it been given to the petitioner, the complainant would have mentioned it in the FIR. She came up with the allegation of entrustment in her supplementary statement, which is an improvement. The allegations of instigation and entrustment are vague and general in nature and appears to have been made by the complainant out of frustration. There is a general tendency to involve all members of the in-laws family in matrimonial disputes.

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 the 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.

15.12.2015

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**(ANITA CHAUDHRY)
JUDGE**