

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-14418-2014 (O&M)

Date of decision:30.10.2015

Amandip Kaur and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CRM-M-22256-2014 (O&M)

Kanwaljit Kaur Mann ...Petitioner

Versus

State of Punjab and another ... Respondents

CRM-M-31176-2014 (O&M)

Ranjit Kaur ...Petitioner

Versus

State of Punjab and another ...Respondents

CRM-M-4339-2015 (O&M)

Rajdeep Kaur ...Petitioner

Versus

State of Punjab and another ...Respondents

CRM-M-4498-2015 (O&M)

Jaspreet Singh Mand ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Amjad Khan, Advocate,
Mr.GBS Dhillon, Advocate and
Mr.C.S.Jattana, Advocate for the petitioners.

Ms.Anmol Grewal, AAG, Punjab.

Mr.Naveen Batra, Advocate for the complainant

RAMESHWAR SINGH MALIK, J. (Oral)

These five identical petitions filed by the accused under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeking quashing of the same impugned FIR No.3 dated 1.3.2014 registered under Sections 406, 498-A and 120-B of the Indian Penal Code ('IPC' for short) at

Police Station NRI, District Jalandhar (Rural), along with consequential criminal proceedings arising therefrom and also seeking setting aside the orders dated 15.9.2014, are being decided together vide this common order, as all the five petitions are based on same set of facts and between the same parties. However, for the facility of reference, facts are being culled out from CRM-M-14418-2014.

CRM-M-14418-2014 has been filed by Amandip Kaur (sister-in-law of the complainant) and Bakhshish Singh (maternal grand father-Nana of husband). CRM-M-4339-2015 has been filed by Rajdeep Kaur (another sister-in-law of the complainant). CRM-M-4498-2015 has been filed by Jaspreet Singh Mand (husband of the complainant). CRM-M-31176-2014 has been filed by Ranjit Kaur (mother-in-law of the complainant) and CRM-M-22256-2014 has been filed by Kanwaljit Kaur Mann (another sister-in-law of the complainant).

It is also pertinent to note here that two sisters-in-law namely Kanwaljit Kaur Mann and Rajdeep Kaur as well as husband of the complainant, were declared proclaimed offenders as they had been living abroad. Since all the six petitioners are accused in the same FIR, they have approached this Court by way of these five petitions under Section 482 Cr.P.C. for quashing of impugned FIR, orders dated 15.9.2014, whereby the above-said three petitioners were declared proclaimed offenders and also the consequential proceedings arising from the impugned FIR.

Briefly put, facts of the case, which are necessary for disposal of these petitions, are that marriage between Jaspreet Singh Mand and Manpreet Kaur took place on 14.2.2011 and soon thereafter they went to Canada. A male child was born out of this wedlock on 7.12.2011 in

Canada. Some temperamental differences arose between the husband and wife and she filed a complaint before the Canadian Police on 5.1.2014 (Annexure P-2) with CRM-M-4498-2015, filed by husband namely Jaspreet Singh Mand. Thereafter, complainant came to India, concealed the fact about her above-said complaint pending consideration before the Canadian Police and got the impugned FIR registered on 1.3.2014 against all the six petitioners.

After getting the impugned FIR registered, complainant again went to Canada and did not return thereafter. Since the above-said three petitioners were declared as proclaimed offenders, investigating agency presented its police report under Section 173 (2) Cr.P.C. before the learned trial Court on 16.10.2014 against the remaining three accused. That is how, all the six accused are seeking quashing of the impugned FIR and consequential criminal proceedings arising therefrom.

Notice of motion was issued and thereafter vide order dated 18.11.2014 passed in CRM-34291-2014 in CRM-M-31176-2014, further proceedings before the learned trial Court were stayed by this Court. Identical replies have been filed by the respondent-State.

Learned counsel for the petitioners submit that the impugned FIR as well as the criminal proceedings arising therefrom are nothing but a glaring abuse of process of court. The allegations levelled in the impugned FIR were absurd on the face of it as the same were based on a concocted story. The complainant has proceeded on a mala fide approach, while concealing the material facts from the notice of the investigating agency with a view to implicate all the family members of the husband including distant relatives and even the age was no bar. Petitioner Bakhshish Singh is

the father of Ranjit Kaur, who is mother of Jaspreet Singh Mand (petitioner) and mother-in-law of the complainant, thus, he is maternal grandfather of husband of complainant. They further submit that petitioners have become the victims of general tendency of implicating maximum members of the family of the husband. The complainant was well aware that her husband namely Jaspreet Singh Mand, her married sister-in-law Amandip Kaur (married in the year 2003 before the marriage of the complainant), Raj Deep Kaur (married in March 2013 after the marriage of the complainant) and Kanwaljit Kaur Mann (married on 1.3.2010 before the marriage of the complainant), were residing in Canada. Despite being aware about these material facts, complainant proceeded on a mala fide approach, levelled frivolous allegations against the petitioners, and not only got them falsely implicated in the impugned FIR but also got them declared proclaimed offenders, by misleading the learned trial Court as well.

Learned counsel for the petitioners would next contend that the complainant hardly stayed with any of the petitioners except her husband and all the alleged events mentioned in the impugned FIR happened, if at all, only in Canada. No incident took place in India except the fact that the marriage was performed in India. Neither there was any occasion nor any of the petitioners indulged in any of such incident, as alleged against them by the complainant. They also contended that even if the allegations levelled against the petitioners in the impugned FIR are taken to be true on their face value, no cognizable offence of any kind, whatsoever, is disclosed against the petitioners. They pray for quashing the impugned FIR, orders dated 15.9.2014 declaring the above-said three petitioners as proclaimed offenders and also the subsequent criminal proceedings arising from the impugned

FIR, by allowing all these five petitions.

On the other hand, learned counsel for the State as well as learned counsel for the complainant submit that allegations against the petitioners were well justified, being factually correct. The incident(s), pointed out in the FIR, have taken place in India as well as in Canada. So far as the complaint dated 5.3.2014, submitted by the complainant before the Canadian Police was concerned, it was not obligatory for the complainant to disclose the said fact at the time of registration of impugned FIR. Regarding the proclaimed offender proceedings, they submit that since the above-said three petitioners did not intentionally appear before the learned trial Court, they were rightly declared proclaimed offenders, because of which they are not entitled to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C. They pray for dismissal of all these five petitions.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar fact situation obtaining in the instant cases, present matters have been found to be fit cases, warranting interference at the hands of this Court, while exercising its inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to prevent the abuse of process of court and also to secure the ends of justice. To say so, reasons are more than one, which are being recorded hereinafter.

There is no denying the fact that before registration of the impugned FIR, complainant submitted her complaint dated 5.1.2014 before the Canadian police, which was pending consideration. It is also not in

dispute that there is not even a passing reference of the said complaint dated 5.1.2014 in the impugned FIR, for the reasons best known to the complainant. It has gone uncontroverted before this Court that the complainant came to India for the purpose of registration of impugned FIR and again went back to Canada. Thereafter, she did not return as if she was neither supposed to cooperate with the investigating agency nor with the prosecuting agency.

Further, the learned counsel for the petitioners have been found justified in contending that the petitioners have become the victims of unhealthy and general tendency of implicating maximum members of the family of the husband, at the instance of the complainant-wife. Having said that, this Court feels no hesitation to conclude that since the impugned FIR and the criminal proceedings arising therefrom, amount to blatant misuse of process of court, the same cannot be sustained.

This does not appeal to reason at all as to what business petitioner-Bakhshish Singh would have with the matrimonial dispute between the complainant and her husband, he being maternal grand-father of the husband and more than 80 years old senior citizen. In fact, implicating petitioner Bakhshish Singh by the complainant in the impugned FIR casts a serious doubt in the story put forth in the impugned FIR, nay, exposes mala fide intention of the complainant to such an extent, that the entire concocted story based on factually incorrect, misleading and frivolous allegations, falls flat.

The complainant had no other motive except this mala fide motive of falsely implicating her sisters-in-law, who were already married before her own marriage, another sister-in-law who came to be married after

the marriage of the complainant, her mother-in-law as well as father of her mother-in-law, with a view to put wholly unwarranted pressure on her husband and other family members, so as to extract more and more money from them, under the threat of this illegally imposed criminal litigation. In such a situation, the impugned FIR as well as the criminal proceedings arising therefrom, including the impugned orders dated 15.9.2014, declaring the three petitioners as proclaimed offenders, clearly amount to glaring abuse of process of court and the same cannot be sustained, for this reason also.

A bare reading of the impugned FIR would show that except the performance of marriage in India, hardly any other incident has taken place in India. The reason was obvious. Soon after the marriage, complainant went to Canada along with her husband. They stayed together as husband and wife. She gave birth to a male child in Canada in December 2011. Thereafter, if because of some temperamental differences, husband and wife could not pull on together any further, it would not be and must not be permitted to be converted into this kind of frivolous litigation, as has been imposed by the complainant on the petitioners.

In fact, in the present case, the complainant has crossed all the limits to satisfy her ego, with a view to wreck her vengeance against her husband and other family members, by implicating them in this false criminal litigation, including a senior citizen of more than 80 years of age, who happens to be maternal grand father of the husband of the complainant. If the criminal proceedings are allowed to continue, it will certainly result in further abuse of process of court and would also result in serious miscarriage of justice, thus, the same cannot be upheld, for this reason as

well.

In the normal circumstance, this Court would not permit any proclaimed offender to invoke inherent jurisdiction of this Court under Section 482 Cr.P.C. for quashing of the criminal proceedings. However, instant cases have been found to be exceptional cases in this regard, reason being the mala fide intention of the complainant right from day one. It is so said, because she was fully aware about this material fact that two of her sisters-in-law namely Raj Deep Kaur and Kanwaljit Kaur Man as well as her husband were residing in Canada. In spite of this fact, the complainant got all these three petitioners declared as proclaimed offenders, while withholding the above-said material fact from the notice of the learned trial Court and misleading everybody including the learned trial Court, in this regard.

It is not even the argued case on behalf of the respondents before this Court that these three proclaimed offenders were ever sought to be served at their respective addresses of Canada. In such a situation, when none of the proclaimed offenders-petitioners ever intended to absent from the court proceedings, they could not have been declared as proclaimed offenders. If such an order is allowed to stand, it shall result in serious miscarriage of justice and would amount granting premium to a wrong doer.

Complainant, in the present case, has not only been misusing the process of law but also showing no respect for the justice delivery system of this country. A litigant like the complainant, who has been taking the system for granted, does not deserve any sympathy from this Court, as well. In this view of the matter, the impugned FIR, impugned orders dated 15.9.2014 (Annexure P-1), declaring the above-said three petitioners

proclaimed offenders and also the consequential criminal proceedings arising out of the impugned FIR are liable to be quashed, so as to prevent any further abuse of process of court and also to secure the ends of justice.

This Court has experienced in the recent past that there is a growing tendency of implicating maximum members of the family of the husband, at the instance of the complainant-wife. This kind of unhealthy practice has come true in the present case. In an identical fact situation, this Court had an occasion to deal with a similar issue in **CRM-M-249-2014 (Poonam Nagar v. State of Haryana and another)** decided on 5.10.2015, whereby a similar FIR under sections 498-A, 406 and 506 IPC registered against the married sister-in-law was quashed by this Court.

Additionally, the above-said view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court as well as this Court:-

- 1.State of Haryana versus Bhajan Lal and others, AIR 1992 SC 604.**
- 2. G.V.Rao, Vs. LHV Prasad, 2000 (3) SCC 693;**
- 3. Manjula Sinha Vs. State of U.P. and others, 2007(3) RCR (CrI.) 778;**
- 4. Sundar Babu and others Vs. State of Tamil Nadu, 2009 (14) SCC 244**
- 5. Preeti Gupta and another Vs. State of Jharkhand and another, 2010 (7) SCC 667**
- 6. Geeta Mehrotra Vs. State of U.P. and another 2012 (10) SCC 741**
- 7. K. Srinivas Rao Vs. D.A.Deepa 2013 (5) SCC 226**
- 8. Sushil Kumar Sharma Vs. Union of India and others**

2005 (6) SCC 281;

9. Madan Lal and others Vs. State of Punjab (P&H) 2012

(8) RCR (criminal) 428;

10. Gurdial Singh and another Vs. State of Punjab and others decided by this court in CRM No.M-36189 of 2010.

11. Rajiv Mehta and another v. State of Punjab and others decided by this Court on 17.8.2015 in CRM-M-8495-2014;

12. Kuldip Singh Jaswal and others v. Jaspal Singh and another, decided by this Court on 3.9.2015 in CRM-M-12551-2012.

The relevant observations made by the Hon'ble Supreme Court in para 20, 21 and 24 of its judgment in **Geeta Mehrotra's** case (supra), which can be gainfully followed in the present case, read as under:-

“It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in 2000 (2) RCR (criminal 290; (2000) 3 SCC 693 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:

“there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, 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 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 reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the 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.” The view taken by the judges in this matter was that the courts would not encourage such disputes.

*In yet another case reported in AIR 2003 SC 1386 in the matter of **B.S. Joshi & Ors. vs. State of Haryana & Anr.** it was observed that there is no doubt that the object of introducing Chapter XXA containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punish the husband and his relatives who harass or torture the wife to coerce her relatives to satisfy unlawful demands of dowry. But if the proceedings are initiated by the wife under Section 498A against the husband and his relatives and subsequently she has settled her disputes with her husband and his relatives and the wife and husband agreed for mutual divorce, refusal to exercise inherent powers by the High Court would not be proper as it would prevent woman from settling earlier. Thus for the purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. It would however be a different matter depending upon*

the facts and circumstances of each case whether to exercise or not to exercise such a power.

XXX XXX XXX XXX

However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegation of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasize by highlighting is that, if the FIR as it stands does not disclose specific allegation against accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognisance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant-wife. It is the well settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of the process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial

surrounding.

Similarly, the observations made by the Hon'ble Supreme Court in para 28 and 30 to 35 of its judgment in **Preeti Gupta's** case (supra), which aptly apply to the facts of the present case, read as under:-

“It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

XXX XXX XXX

It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints.

Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace

and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

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.

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. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society."

Coming back to the peculiar fact situation obtaining in the present case and respectfully following the law laid down by the Hon'ble Supreme Court, in the cases referred to hereinabove, it is unhesitatingly held that continuation of the criminal proceedings, arising out of the impugned FIR, would result in further abuse of process of court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the

considered view that the instant petitions deserve to be accepted.

Consequently, the impugned FIR No.3 dated 1.3.2014 registered under Sections 406, 498-A and 120-B IPC, orders dated 15.9.2014 declaring the above-said three petitioners as proclaimed offenders, as well as the subsequent criminal proceedings arising out of the impugned FIR, are hereby ordered to be quashed, however, only qua the petitioners.

Resultantly, with the above-said observations made, all the five petitions stand allowed, however, with no order as to costs.

30.10.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE