

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

**Criminal Misc. No. M-19161 of 2013 (O&M)
Date of Decision: 29.09.2015**

Sukhdeep Kaur & another

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

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

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

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner (s).

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Ritesh Pandey, Advocate
for respondent no.2.

HARI PAL VERMA J.(Oral)

Petitioners namely Sukhdeep Kaur and Rajwant Kaur daughters of Wassan Singh, residents of Village Rour Khera, Tehsil Batala, District Gurdaspur have filed the present petition under Section 482 Cr.P.C. for quashing of FIR No.32 dated 12.6.2012 under Sections 406 and 498-A IPC, registered at Police Station Shekhwan, Police District Batala, District Gurdaspur (Annexure P-1).

On the basis of complaint made by complainant/

respondent No.2 – Kulwinder Kaur, the aforesaid FIR was registered against the petitioners and other accused namely Lakhminder Singh son of Wassan Singh (husband), Manjit Kaur wife of Wassan Singh (mother-in-law). As per the FIR, the complainant got married with Lakhminder Singh on 17.8.2009 as per Sikh rites. The marriage was performed at Randhawa Palace, Qadian Road, Batala. The parents of the complainant gave warm welcome and treated the *barat* party very well. They gave *Istri Dhan* including gold ornaments, as per their capacity and spent about Rs.3 lacs in the marriage.

Learned counsel for the petitioners while praying for quashing of FIR states that the petitioners are sisters-in-law of the complainant-respondent no.2 and there is no specific allegation against them for the cruelty met out to the complainant. He submits that the allegations levelled in the FIR are not only vague, rather motivated and an afterthought. The petitioners have been implicated with ulterior motive, so that the whole family of the husband can be harassed. The very purpose of naming the petitioners in the present FIR is to disrepute them and further, to create complications in their marriage prospects. He submits that in fact, the complainant was more interested and inclined towards her parents, who also used to interfere in the day-to-day functioning of her in-laws family. Even if there is dispute between complainant and her husband namely Lakhwinder Singh, at the time of their marriage, the petitioners, who are sisters-in-law, were 18 to 20 years of age and could never

demand dowry. Except bald and vague allegations that the articles were jointly given to all the family members of the husband, there is no other allegation against them. The very object of registering the present FIR is to mount pressure upon the family members of the petitioners to come to their terms. He further submits that such like false accusations have become a fashion now-a-days. When the marriage goes in rough weather, a tendency has developed to rope in all the family members of the husband, by levelling false allegations of demand of dowry and cruelty in a very convenient manner. Therefore in the absence of any specific allegation, the petitioners cannot be allowed to suffer at the hands of the complainant. It has been further submitted that the marriage was solemnised in the year 2009 whereas the present FIR was registered in 2012, that too, after the birth of a son. There is no entrustment of any dowry article to the petitioners.

Learned counsel for the petitioners has placed reliance upon judgment of Hon'ble the Apex Court in the case of **Chandralekha & ors. v. State of Rajasthan & anr. 2013(1) RCR (Criminal) 959** to contend that the petitioners are sisters-in-law of the complainant and no specific role has been attributed to the petitioners and the allegations so levelled are vague and general in nature. He refers to para 8 of the said judgment, which reads as under:-

“8. We must, at the outset, state that the High Court's

view on jurisdiction meets with our approval and we confirm the view. However, after a careful perusal of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to appellants 1, 2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants. Respondent 2 has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1, 2 and 3 were residing with them at Ahmedabad. The marriage took place on 9/7/2002 and respondent 2 left her matrimonial home on 15/2/2003 i.e. within a period of seven months. Thereafter, respondent 2 took no steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against appellants 1, 2 and 3. It is important to remember that appellant 2 is a married sister-in-law. In our opinion, such extra ordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by respondent 2 against appellants 1, 2 and 3, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, respondent 2 has tried to rope them in this case along with her husband. We are of the confirmed opinion that continuation of the criminal proceedings against appellants 1, 2 and 3 pursuant to this FIR is an abuse of process of law. In the interest of justice, therefore, the FIR deserves to be quashed insofar as it relates to appellants 1, 2 and 3.”

Reliance has also been placed on judgment of this Court in the case of **Divya alias Babli & ors. v. State of Haryana & anr. 2006(4) RCR (Criminal) 322** to contend that now-a-days, women are abusing the beneficial provision of Section 498-A IPC and a tendency has developed for roping in all the relations in dowry cases and thus, the proceedings *qua* the petitioners who are sisters-in-law is liable to be quashed. He refers to paras 20, 22 and 25 of the said judgment which read as under:-

“20. I have been the complaint very minutely once again. Although either side has not placed on record the challan for its perusal but in my considered view the prosecution should go by what is alleged in the basic complaint (Annexure P-1). It has come on record that the complainant is M.A. pass and her husband Sanjay (non-petitioner) is employed in the Electricity Supply Board, New Delhi and was earning about Rs. 10,000/- per month. A bare perusal of the complaint indicates that it has been drafted with certain oblique reasons so that all the family members of in-laws of the complainant are taken in. Rajbir, who is maternal uncle's (Mama's) son of Sanjay Kumar (husband) is also not spared. Daya Kishan, a member Panchayat is also implicated in this case with the allegation that the complainant was being harassed at the behest of aforesaid persons (Rajbir and Daya Kishan). In para 2 of the complaint it is stated that several dowry articles including Istridhan was given to the respondents exclusively as well as jointly. I am surprised as to how Rajbir and Daya Kishan petitioners can be said to have any nexus with the entrustment of dowry articles.

Similarly, the other two petitioners, namely, Babli who is also known as Divya (petitioner No. 1) and Meenakshi who is also known as Soni alias Manisha have been arrayed as accused with the general allegations of demand of dowry, entrustment of dowry articles and the harassment at their hands. Divya @ Babli petitioner is a married sister-in-law (real sister of husband) who was married way back in 1986 and is residing at a different place. She cannot even be remotely connected with both the offences as alleged viz. 498-A/406 Indian Penal Code. Meenakshi @ Soni @ Manisha (petitioner No. 2) is unmarried sister-in-law. Mr. Saini states that she is still unmarried as the parents have not arranged her marriage on account of the pendency of the criminal proceedings against her. In my considered view, her involvement in the instant case is an outcome of usual hatred in the mind of the complainant side after the matrimonial discord. This rather goes to strengthen my observation that a tendency has developed for roping in all the relations in dowry cases.

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22. In Rajinder Mohan Kashyap's case¹ (supra) relied upon by Mr. Saini, this Court while quashing the proceedings qua some of the family members of in-laws of the wife has also observed that it has become a tendency in matrimonial disputes to implicate all the family members, even some time the distant relations, on the vague allegations. In the said judgment this Court has relied upon a judgment of Hon'ble Supreme Court rendered in M/s. Pepsi Foods Ltd. v. Special Judicial Magistrate, 1997(4) RCR(Crl.) 761 (SC) in which their

Lordships have observed as under :-

".... Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused."

22. Another judgment rendered in *Shinder Pal @ Kakke's* case (*supra*) relied by Mr. Saini, this Court while relying upon a judgment of Apex Court rendered in [Kans Raj v. State of Punjab and others, 2000\(2\) RCR\(Cr.\) 695 \(SC\) : AIR 2000 Supreme Court 2324](#) wherein their Lordships have observed that a tendency has developed for roping in all the relations in dowry cases which ultimately weakens the case of the prosecution even against the real accused.

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25. Taking into consideration the totality of facts and circumstances of the instant case and following the rationale of the judgment rendered in *Sushil Kumar Sharma's* case (*supra*)¹, in my considered view, the

instant petition qua petitioners Divya @ Babli, Ms. Meenakshi, Rajbir Singh and Daya Kishan (Petitioner Nos. 1 to 4) deserves to be allowed. Ordered accordingly.

He further relies upon judgment of this Court in the case of **Manjit Kaur v. State of Punjab & ors. CRM-M-38990 of 2007 rendered on 10.10.2014**, wherein, this Court while observing that it is unheard that articles, as mentioned in the FIR, are given to unmarried sister-in-law and thus, quashed the FIR therein. The relevant observations of this Court in the said case read as under:-

*“Learned counsel for the petitioner has argued that in view of the latest law in **Hardeep Singh v. State of Punjab and another, 2014 (3) SCC 92**, even on the basis of examination-in-chief, the additional accused can be summoned. I am of the view that the Court must also be satisfied that there are sufficient grounds to proceed against the additional accused. List of the articles entrusted to Manjit Kaur and Harwinder Kaur, reproduced above, is completely absurd. It is unheard that TV is given to the unmarried sister-in-law along with four bangles and fridge. The list of articles allegedly entrusted to Harwinder Kaur @ Rano, married sister-in-law of the complainant shows that two watches were given. Then 4 tolas of gold set is alleged to have been given along with 251 steel utensils. I am of the view that wild allegations have been leveled and the same cannot be believed. During investigation, the police found that no case is made out against Manjit Kaur and Harwinder Kaur. I am of the view that the conclusion drawn by the police is*

absolutely correct. Even a plain reading of the FIR shows that wild allegations were leveled without any basis and entire family of the husband was roped in, including married and un-married sisters-in-law."

Similarly, reliance has been placed upon judgment of this Court in the case of **Anguri Devi etc. v. State of Punjab etc. 2011 (2) RCR (Criminal) 431**, wherein this Court has quashed the FIR on the ground that a tendency has developed for roping in all the relatives in dowry cases in order to browbeat and pressurise the immediate family of the husband. Paras 9 to 12 of the said judgment read as under:-

*"9. Applying the test in the present case, no act of the petitioners can be said to be covered under the definition of cruelty defined under Section 498-A IPC. The allegation of misappropriation, if at all, are also vague. This Court, in the case of **Ramesh and others vs. State of Tamil Nadu** reported as 2005(2) RCR(Criminal) 68, while quashing the FIR against the relatives for offences under Sections 406 and 498-A in same and similar facts held in para 6 as under :-*

" 6. xxx xxx xxx

Looking at the allegations in the FIR and the contents of charge-sheet, we hold that none of the alleged offences, viz., Sections 498-A, 406 of the IPC and Section 4 of the Dowry Prohibition Act are made out against her. She is the married sister of the informant's husband who is undisputedly living in Delhi with her family. Assuming that during the

relevant time, i.e., between March and October, 1997, when the 6th respondent (informant) lived in Mumbai in her marital home, the said lady stayed with them for some days, there is nothing in the complaint which connects her with an offence under Section 498-A or any other offence of which cognizance was taken. Certain acts of taunting and ill-treatment of informant by her sister-in-law (appellant) were alleged but they do not pertain to dowry demand or entrustment and misappropriation of property belonging to the informant. What was said against her in the FIR is that on some occasions, she directed the complainant to wash W.C. and she used to abuse her and used to pass remarks such as "even if you have got much jewellery, you are our slave." It is further stated in the report that Gowri would make wrong imputations to provoke her husband and would warn her that nobody could do anything to her family. These allegations, even if true, do not amount to harassment with a view to coercing the informant or her relation to meet an unlawful demand for any property or valuable security. At the most, the allegations reveal that her sister-in-law Gowri was insulting and making derogatory remarks against her and behaving rudely against her. Even acts of abetment in connection with unlawful demand for property/dowry are not alleged against her. The bald allegations made against her sister-in-law seem to suggest the anxiety of the informant to rope in as many of the husband's relations as possible. Neither the FIR nor the

charge-sheet furnished the legal basis to the Magistrate to take cognizance of the offences alleged against the appellant Gowri Ramaswamy. The High Court ought not to have relegated her to the ordeal of trial. Accordingly, the proceedings against the appellant Gowri Ramaswamy are hereby quashed and her appeal stands allowed.”

10. *In the present case, admittedly, the petitioners are residing separately. As detailed above, they are the unmarried sister-in-law, Jeth and Jethani i.e. the brothers and brothers' wives of the husband of the complainant.*

11. *This Court in a case of Divya alias Babli and others v. State of Haryana and another reported as 2006 (4) RCR (Criminal) 322, while relying on the judgement of the Apex Court rendered in the case of **Kans Raj v. State of Punjab and others** reported as 2000(2) RCR (Crl.) 695 held as under:-*

*“22. Another judgement rendered in **Shinder Pal @ Kakke's case**¹ (supra) relied by Mr. Saini, this Court while relying upon a judgement of Apex Court rendered in **Kans Raj v. State of Punjab and others, AIR 2000 Supreme Court 2324** wherein their Lordships have observed that a tendency has developed for roping in all the relations in dowry cases which ultimately weakens the case of the prosecution even against the real accused.*

*23. My view is also fortified by the latest judgment of Hon'ble Supreme Court rendered in **Ramesh Kumar and others vs. State of Tamil Nadu, 2005 (2) R.C.R.(Criminal) 68** in which their Lordships*

1 Shinder Pal @ Kakke vs. State of Haryana, 2004 (2) R.C.R. (Criminal) 398

while quashing the proceeding against sister-in-law who was staying at a different place observed that there were bald allegations to rope in as many relations of the husband.

*24. Another latest judgment of Apex Court rendered in **Sushil Kumar Sharma vs. Union of India and others, 2005 (3) R.C.R.(Criminal) 745** where issue of striking down Section 498-A IPC had sprouted, their Lordships observed that in such type of cases the “action” and not the “section” may be vulnerable and the Court by upholding the provisions of law may still set aside the action, order or decision and grant appropriate relief to the persons aggrieved. Their Lordships while dealing with the dowry menace, however, observed in para 17 as under:-*

“The object of the provision is prevention of the dowry menace. But as he has been rightly contended by the petitioner many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy (ignominy?) suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways

how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing framework. As noted above the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin's weapon. If cry of "wolf" is made too often as a prank, assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the Courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalised statement. Certain statutory presumptions are drawn which again are rebuttable. It is to be noted that the role of the investigating agencies and the Courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious

allegations. It is equally indisputable that in many cases no direct evidence is available and the Courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

12. Lately, a tendency has developed for roping in all the relations in dowry cases in order to browbeat and pressurize the immediate family of the husband. Accordingly, sometimes inflated and exaggerated allegations are made. In the present case, the petitioners are the relatives who are admittedly residing separately. No specific allegation is alleged. The allegation, if at all, do not satisfy the definition of cruelty or misappropriation. No offence under Section 406 or 498-A is made out.

Further, reliance has been placed on **Anita & ors. v. State of Punjab 2003(4) RCR (Criminal) 313**, wherein this Court while observing that it is unbelievable that the unmarried sisters and unmarried brother of the husband would be entrusted with any article of dowry separately quashed of the FIR under Section 498-A/406 IPC *qua* them. Para 11 of the said judgment reads as under:-

“11. The allegations in my view qua the present petitioners are vague in nature and they have no concern with the demand of dowry or cruelty at all. There is a tendency to involve all the relatives of the husband when the relations between the husband and the wife become strained. It is not believable that the unmarried sisters or unmarried brother of the husband would be entrusted

with any article of dowry separately. It appears to me that the complainant has knitted a net wider in order to involve everybody in her in-laws.”

In the case of **Rajinder Mohan Kashyap v. Om Parkash Sharma 2005(1) RCR (Criminal) 274**, this Court quashed the FIR *qua* sister-in-law by observing as under:-

“6. In the complaint, there are no specific allegations against the petitioner Rajinder Mohan Kashyap (accused No. 7 in the complaint), except in para No. 6 where it has been alleged that during the period from February 1995 to June 1995, when the daughter of the complainant resided in the matrimonial home at Una, accused Nos. 2 to 7 used to taunt and harass her telling that she should ask her father to purchase a plot at Mohali for Bimla Devi (mother-in-law). However, neither any specific date nor any time or place of taunting and harassing has been given. Admittedly, the relations between the husband and wife were cordial when they remained in India soon after the marriage. Therefore, these vague allegations against the petitioners do not inspire any confidence. As far as the other two petitioners in Crl. Misc. No. 8903-M of 2001 are concerned the allegations in the complaint are that when the wife was in Australia, a representation was made by accused Nos. 2, 3 and 4 to the complainant that they were planning to visit Australia and if he wanted to give some gift to his daughter and the child, he could give the same to them. Thereupon, some gift items were handed over to them which they did not deliver to the wife at Australia. There allegations are also vague and

no specific date, time and place has been given.

7. In my opinion, not only the allegations are vague but in the complaint, the complainant has concealed the material facts regarding divorce and handing over the dowry articles by the husband to the wife. With this petition, the petitioner has annexed the order of dissolution of marriage by the Australian Court as well as the list of dowry articles which were handed over by the husband to the wife. In reply, those facts have not been denied. In view of such conduct by the complainant while concealing the material facts while approaching the Court, the summoning of the petitioners, who are the maternal uncle and married brother-in-law and sister-in-law and are living separately, is wholly unjustified. Generally, it has become a tendency in the matrimonial disputes to implicate all the family members, even some times the remote relations, on the vague allegations. The Court while summoning those relations, who are living separately, should carefully analyse the incriminating material against those persons and only those persons should be summoned against whom there are strong and reliable material. Such relations should not be summoned in a casual manner. In this case, perusal of the summoning order indicates that the trial Court has summoned the petitioners without discussing the specific allegations against those persons. Before issuing the summoning order in a private complaint, the trial Court is required to apply its mind and then on the basis of the preliminary evidence and the documents on the record, it has to form an opinion that prima facie the person summoned has committed a cognizable offence. In [M/s. Pepsi Foods Ltd., v. Special Judicial Magistrate, 1997](#)

(4) RCR(CrI) 761 (SC) : AIR 1998 Supreme Court 128.

the Hon'ble Supreme Court, has observed as under :-

".....Summoning of an accused in a criminal case is a serious matter. Criminal Law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused."

In my opinion, the summoning of the petitioners in the complaint (Annexure P-1) is totally unjustified and is a clear abuse of the process of the Court. This Court has the inherent power under Section [482](#) of the Code of Criminal Procedure to quash the criminal proceedings at the summoning stage, when the same are an abuse of the process of law.

In view of the aforesaid discussion, both the instant petitions are allowed. Accordingly, the complaint dated 3.11.1998 (Annexure P-1) and the summoning order dated 11.5.1999 (Annexure P-7) passed by the trial Court are quashed qua the petitioners."

Similarly, reliance has also been placed on judgments of

this Court in the cases of **Tarsem Kaur & anr. v. State of Haryana & anr. 2013(7) RCR (Criminal) 1893** and **Anisha Bhandari v. State of Haryana 2005(2) RCR (Criminal)429** in support of the contentions raised on behalf of the petitioners.

On the other hand, learned counsel for the complainant-respondent no.2 has argued that no doubt, the marriage was solemnised on 17.8.2009, there are allegations against the petitioners that all these dowry articles were given to the husband of the complainant, her mother-in-law and the petitioners in the presence of all the relatives. He submitted that the in-laws family of the complainant started taunting the complainant by saying that they want to send their son Lakhminder Singh to foreign country and therefore, the complainant should bring Rs.1 lakh and a new Indica car. However when the complainant had shown the inability of her parents to give the cash, the complainant was given beatings by father-in-law, mother-in-law and both the sisters in law. Thus, there are sufficient allegations against the petitioners to face trial and the present petition for quashing of a FIR is, therefore, liable to be dismissed. Learned counsel for the complainant further argued that even if the petitioners are unmarried sisters-in-law, they have been specifically named in the FIR and there is sufficient material against them to face trial. Therefore, the FIR cannot be quashed. He placed reliance on judgment of Hon'ble the Apex Court in the case of

Sherish Hardenia & ors. v. State of M.P. & anr. 2014(1) RCR

(Criminal) 342 to contend that when a prima facie case is made out, even if there is no likelihood of conviction, such FIR cannot be quashed. Para 3 of the said judgment reads thus:-

*“3. So far as the prosecution is concerned it was of the opinion that a triable case had been established against Amrish, the husband, both his parents, his brother. The prosecution had made out a case even against his brother's wife who came into the family five years after the performance of the hapless marriage and approximately two years before the tragic suicide of late Archana. At this stage therefore, in discharging all four persons other than the husband/widower Amrish, the Sessions Judge had necessarily to have come to the conclusion that on a perusal of the material before the Court there was no likelihood of a conviction being returned, nay, that not even a prima facie case against them had been disclosed. We need not travel beyond the decisions rendered by this Court in **State of Maharashtra v. Somnath Thapa, 1996(2) R.C.R. (Criminal) 480 : (1996)4 SCC 659; State of Bihar v. Ramesh Singh, AIR 1977 SC 2018 : (1977)4 SCC 39; Union of India v. Prafulla Kumar Samal, (1979)3 SCC 4 and Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia, (1989)1 SCC 715. We also think that the line of decisions including State of Haryana v. BhaJANLal, 1991(1) R.C.R.(Criminal) 383 : (1992) Supp. 1 335 as well as Michael Machado v. CBI, 2000 (2) R.C.R.(Criminal) 75 : (2000)3 SCC 262 and Suman v. State of Rajasthan, 2009(4) R.C.R.(Criminal) 908 : 2009(6) Recent Apex Judgments (R.A.J.) 365 : (2010)1***

SCC 250 are also apposite in the context of Section [319](#) of the Criminal Procedure Code. Whether it is quashing of an FIR or a Charge-Sheet, or summoning a party under Section 319, Criminal Procedure Code, this Court has repeatedly opined that the approach of the Judge must be to consider whether the collected material and evidence is indicative of existence of merely a prima facie case. It is only where there is absence of even a prima facie case that the Judge would be justified in cancelling the FIR, or quashing the Charge-Sheet, or declining the summoning of a third person under Section 319, Cr.P.C.. The learned Single Judge, as we have already noticed above, comprehensively and correctly analyzed the case law and appreciated the evidence to come to the conclusion that there was enough material available even at that stage for maintaining the trial, i.e. reversing the view of the Sessions Judge on this score. The Single Judge was correct in maintaining that there was inadequate material in regard to Sangeeta as had been held by the Sessions Judge.”

He further relied upon judgment of Hon'ble the Apex Court in the case of **Taramani Parakh v. State of M.P. & ors. 2015 (3) RCR (Criminal) 445**, wherein it has been held that the question whether the accused has harassed and treated the complainant with cruelty or not is a matter of trial. The trial will establish such allegations. It would be too early to comment at this stage that no case is made out.

He refers to paras 14 to 15, which read as under:-

“14. From reading of the complaint, it cannot be held that even if the allegations are taken as proved no case is made out.

15. There are allegations against Respondent No. 2 and his parents for harassing the complainant which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home as she apprehends lack of security and safety and proper environment in the matrimonial home. The question whether the appellant has infact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made out. Thus, quashing of proceedings before the trial is not permissible.”

I have heard learned counsel for the parties.

A bare perusal of FIR shows that there is no specific allegation against the petitioners, who are other otherwise unmarried sisters-in-law of the complainant. They are not going to gain from the demand of dowry. There is no specific allegation as to what dowry articles were entrusted to which of the petitioners. Though the FIR in question mentions that the complainant was given beatings by her father-in-law, mother-in-law and both the sisters, but there is neither any medical evidence about the beatings nor any communication by the complainant to her parents in this regard. The petitioners along with other family members have been referred in the FIR so as to mount pressure upon them. No specific role or overt act has been attributed to any of the petitioners and the allegations made in the

FIR are not only vague, rather general in nature. It is now well settled that in order to attract the provisions of Section 498A IPC, there must be specific allegations/overt act on the part of the accused and there must be *prima facie* material against the petitioners to indicate that the dowry articles were actually entrusted to them and they misappropriate the same. For the fault of the husband, the other relations cannot, in all cases, be held to be involved in the demand of dowry. It is noticed that in the recent past, a tendency has developed for roping in all the relations of husband in dowry cases in order to browbeat and pressurise the immediate family of the husband. Accordingly, sometimes even inflated and exaggerated allegations are levelled against them with oblique motive. Present is also a case where the petitioners are unmarried sisters-in-law and despite there being no specific allegation against them, they have been roped in the present FIR. The allegation, if at all, do not satisfy the definition of cruelty or misappropriation. Thus, no offence under Sections 406/498-A IPC is made out against the petitioners. Reference may be made to judgment of this Court in the case of **Arshdeep Kaur v. Amninderpal Kaur 2013(7) RCR (Criminal) 1518**, wherein in more or less in similar circumstances, where the complainant had made allegations against unmarried sisters regarding demand of dowry and entrustment of articles, this Court while considering the facts that since no specific averments as to when the complainant was tortured by the petitioners, when the demand was raised, when any article

was entrusted to them, when they caused injury to her and when there is no evidence with regard to the beatings given to her, has quashed the FIR. Para 8 of the said judgment reads as under:-

“8. I have considered the rival contentions of the parties and perused Annexures P-3 and P-4. Annexure P-3 is the first application given to SSP, Police District Khanna alleging that at the time of marriage, the parents of the complainant have spent more than their status and Motor cycle, colour TV, watch, refrigerator, furniture, gold ornaments etc. had been given. But in para 4 of the complaint to the SSP, Khanna, it is mentioned that earlier her husband was working at a medical shop and now he is doing nothing, rather, he has become a drug addict. Similar is the position with regard to the allegations in the complaint filed before the learned Magistrate. There are no specific averments as to when the complainant was tortured by petitioners no.1 and 2; when the demand was raised; when any articles were entrusted to them; when they caused injury to her. There is no medical evidence with regard to the beating etc. Rather, there is evidence on record to show that brother of petitioner No.1 was beaten up by brother of respondent No.1 and thereafter panchayati compromise was reached. Compromise has been annexed as Annexure P-2. In the face of this situation when there is no entrustment of any article nor there are specific allegations against the petitioners, the petitioners herein cannot be proceeded against. Petitioner No.1 is the unmarried sister-in-law who at the relevant point of time was pursuing M.Sc. Industrial Chemistry at GNDU, Amritsar and petitioner No.2 is the middleman who arranged marriage between the

complainant and the brother of petitioner No.1. Even against petitioner No.2, no specific allegations are levelled. Only allegation against him is to the effect that he had informed the complainant that her parents had not given some dowry articles. Even no date is mentioned when these were uttered. In the face of this situation, learned counsel for the complainant failed to rebut these facts and also failed to point out specific entrustment of particular articles.”

In view of the aforesaid, the present petition is allowed and FIR No.32 dated 12.6.2012 under Sections 406, 498-A IPC, registered at Police Station Shekhwan, Police District Batala, District Gurdaspur (Annexure P-1) is quashed, *qua* the petitioners.

September 29, 2015
AK

(HARI PAL VERMA)
JUDGE