

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-19593 of 2014
Date of Decision: 29.01.2015

Gul Aisa Begham and others

---Petitioners

versus

Razia Begham

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rahish Pahwa, Advocate
for the petitioners
None for the respondent.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

REKHA MITTAL, J.

The present petition under Section 482 of the Code of Criminal Procedure (in short "Cr.P.C.") has been filed for quashing complaint No. 164/1 dated 7.10.2010 titled "*Razia Begham vs. Mohd. Mazebul Rehman and others*" under Sections 406, 498-A, 323, 341, 506 read with Section 34 of the Indian Penal Code (in short "IPC") (Annexure P-1) and summoning order dated 25.2.2014 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Ludhiana.

Counsel for the petitioners contends that Razia Begham, complainant-respondent filed criminal complaint against her husband, mother-in-law (non-petitioners) and the petitioners who are the married sister-in-law, her husband and her in laws family members. As per case of

the complainant, her marriage with accused Mohd. Mazbul Rehman was performed on 23.4.1998 as per Muslim rites and ceremonies at Thakur Ganj, Bihar and out of their wedlock, three children namely one son and two daughters were born. It is argued that entrustment of dowry articles, if any, took place at Thakur Ganj, Bihar and the respondent remained residing with her husband and his family in Bihar upto the year 2008. It is not case of the complainant that during her long stay of 10 years in Bihar, whatever articles of *stridhan* were given to her, the same were not allowed to be used by her. It is further argued that even if any maltreatment or harassment was caused to the complainant in connection with demand of dowry during her stay in Bihar, the present petitioners can not be summoned for commission of offence punishable under Sections 406, 498-A IPC by the Court at Ludhiana. The complainant has raised vague and omnibus allegations against all the accused in regard to misappropriation of articles of *stridhan* and cruelty in connection with demand of dowry or insufficient dowry. Petitioner No. 1 is the married sister-in-law of the complainant and her marriage was performed in the year 1995 prior to marriage of the complainant. She has nothing to do with marital affairs of the complainant who was staying in Bihar for about 10 years after her marriage in the year 1998. It is further argued that the petitioner, her husband and her in laws family members have been indicted in the crime with a view to make the net wider and involve maximum number of relatives of the husband. If the facts and circumstances of the present case are examined in the light of observations made by the Hon'ble Supreme Court of India in *Preeti Gupta and another vs. State of Jharkhand and another* 2010(4) R.C.R.

(Criminal) 45, the criminal proceedings are liable to be quashed being the result of an abuse and misuse of process of law.

Counsel has further submitted that the complainant along with her husband shifted to Ludhiana in the year 2008. There is no allegation in the complaint that the complainant along with her family had been residing with the petitioners. The allegations of the complainant in regard to occurrence dated 16.12.2009 neither finds corroboration from an independent source much less she being subject to any medical examination with regard to any injuries caused to her. She has not mentioned name of any respectable of the locality who intervened to save her from the accused persons.

It is further argued that as the petitioners could not be the beneficiaries of any demand of dowry, there was no occasion for them to cause any harassment to the complainant much less subject her to beatings etc.

The respondent was earlier represented by a counsel but she failed to file any reply to controvert averments set up in the petition. Counsel representing the respondent failed to appear in the court to make any submissions in response to arguments advanced by counsel for the petitioners. In these circumstances, the averments set up in the petition are to be accepted as correct.

I have heard counsel for the petitioners and perused the records.

The complainant filed complaint (Annexure P-1) levelling allegations against the accused in regard to misappropriation of articles of *stridhan*, she being maltreated in connection with demand of dowry and in

regard to occurrence dated 16.12.2009 at about 4.15 p.m. wherein the present petitioners are sought to be indicted. The complainant has raised general and vague allegations against all the accused in regard to offence punishable under Sections 406, 498-A IPC. The learned trial court did not bother to examine that some of the accused (petitioners No. 3 to 5) are the in laws family members of sister-in-law (Nanad) of the complainant and the said sister-in-law is stated to be residing in Ludhiana but the complainant and her in laws family members were residing in Bihar since her marriage in the year 1998 till she shifted to Ludhiana in the year 2008. In this view of the matter, I am of the considered opinion that complaint against the petitioners in regard to committing offence punishable under Sections 406, 498-A IPC is nothing but an abuse and misuse of process of law and, therefore, the proceedings for the said offences cannot be allowed to sustain.

The complainant in para 08 of the complainant has narrated an incident which purportedly took place on 16.12.2009 at about 4.15 p.m. It appears that there is no medical evidence in support of her allegations that the accused manhandled her and gave her fist blows etc. She has not mentioned name of any respectable of the locality who came to her rescue on alarm raised by her.

Keeping in view the fact that the complainant had gone to the extent of indicting all the petitioners in regard to commission of offence punishable under Sections 406, 498-A IPC as well, it certainly compels the court to hold that allegations raised in para 08 should not be made the basis to compel the petitioners to face criminal proceedings qua offence punishable under Sections 323, 341 IPC. It further appears that as the

complainant had a grievance to express against her husband who is statedly drunkard and comes to the house late at night and subject her to physical torture under influence of liquor, she has involved large number of relatives of her husband in the criminal proceeding. I find force in the contention of the petitioners that it is just and expedient that they should not be forced to face rigmarole of criminal trial.

For the reasons aforesaid, the petition is allowed, the aforesaid complaint and proceedings emanating therefrom are quashed qua the petitioners. Any observation made by this Court would be confined to disposal of the present petition, therefore, have no bearing in regard to culpability of other accused summoned in the case.

(REKHA MITTAL)
JUDGE

29.01.2015

PARAMJIT