

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

CRM-M-25604-2011 (O&M)

Date of Decision: February 2, 2015

Reena Kumra

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.S.K.Sandhir, Advocate
for the petitioner.

Mr.Mikhail Kad, AAG, Punjab
for respondent No.1.

Mr.Rajinder Goel, Advocate
for respondent No.2.

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Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition, filed under Section 482, Cr.P.C.
by Reena Kumra, i.e. sister-in-law/*Jethani* of respondent No.2-
complainant Shweta Kumra (*Devrani*), is for quashing of FIR
No.56, dated 04.04.2011, for the offences punishable under
Sections 406 and 498-A, IPC, registered at Police Station,
Nakodar, District Jalandhar, and consequential proceedings
arising therefrom, being the abuse of process of law.

Learned counsel for the petitioner submits that Reena Kumra, the petitioner, alongwith her husband was residing in a separate accommodation than that of complainant Shweta Kumra; marriage of the petitioner was solemnized on 12.09.1997 at Jalandhar; the petitioner is a teacher in a private College; the marriage of respondent No.2-complainant was solemnized with Vishal Kumra on 07.04.2003 at Mathura; there was a dispute between Shweta Kumra and Vishal Kumra and, as such the complainant started residing separately and after sometime she left India and went to United Kingdom and stayed there for about 2 ½ years. He further submitted that in the year 2010, the husband of respondent No.2 filed a petition under Section 13 of the Hindu Marriage Act seeking divorce from her (respondent No.2). A petition under the Protection of Women from Domestic Violence Act was also filed by respondent No.2-complainant seeking maintenance from her husband Vishal Kumra. The petitioner and her husband had never demanded dowry from respondent No.2-complainant. The impugned FIR was got registered as a counter-blast to the divorce petition filed by the husband of the complainant which is a gross abuse of the process of law and, as such, is liable to be quashed. In support of his

contentions, the learned counsel has placed reliance on **Preeti Gupta and another vs State of Jharkhand and another**, 2010(4) RCR (Criminal) 45; **Anguri Devi etc. vs State of Punjab etc.**, 2011 (2) RCR (Criminal) 431; **Rakesh Kumar and others vs State of Punjab and others**, 2009(2) RCR (Criminal) 565; **Smt.Rani vs State of Haryana**, 2006(1) RCR (Criminal) 985; **Divya alias Babli and others vs State of Haryana and another**, 2006(4) RCR (Criminal) 322; **Ramesh and others vs State of Tamil Nadu**, 2005(2) RCR (Criminal) 68; **Kamaljit Singh vs State of Punjab**, 2004(1) RCR (Criminal) 321; **Harjinder Kaur and others vs State of Punjab**, 2004 (4) RCR (Criminal) 332; **Sher Singh and others vs State of Punjab and another**, 2002 (3) RCR (Criminal) 539; and **M/s Pepsi Foods Ltd. vs Special Judicial Magistrate**, 1997(4) RCR (Criminal) 761.

On the other hand, Mr.Mikhail Kad, learned Assistant Advocate General, Punjab, as well as Mr.Rajinder Goyal, learned counsel for respondent No.2-complainant vehemently opposed the submissions raised by the learned counsel for the petitioner and submitted that there were specific allegations of maltreatment and harassment of respondent No.2-complainant for and on account of demand of dowry. They further submitted

that initially the FIR was registered for the offences punishable under Sections 406 and 498-A, IPC, but during investigation Sections 4 and 6 of the Dowry Prohibition Act were also added and the petitioner has not filed this petition for quashing of the FIR and consequential proceedings emanating therefrom for the additional offences. They further pointed out that there are specific allegations against the petitioner and, as such, the proceedings cannot be terminated qua her merely on the ground that she is the sister-in-law (*Jethani*) of the complainant. They further submitted that in case the petitioner is able to make out a case before the learned trial Court, then she might be discharged after scanning the whole material. In support of their contentions they have placed reliance on **Bhaskar Lal Sharma and another vs Monica and others**, 2014(1) RCR (Criminal) 987 and **Minakshi Bala vs Sudhir Kumar and others**, (1994) 4 SCC 142.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

Before dealing with the rival contentions raised by the learned counsel for the parties, it is essential to recapitulate the

facts and the specific allegations levelled against the petitioner.

A perusal of the FIR reveals that the petitioner was arrayed as accused No.3. It is averred in the FIR that immediately after the marriage, all the accused started taunting that dowry articles were not as per their choice and were of sub-standard. The jewellery of the complainant was taken away from her on the pretext that the same was not safe at home and thereafter kept in the locker, which was in the name of the petitioner. It has also been averred that during her pregnancy, the complainant was beaten up by the accused. The FIR is running into several pages and the reproduction of all the averments would not be useful for the disposal of the present petition, but it is suffice to say that bare reading of the same would reveal that the petitioner was actively conniving with her co-accused in maltreating the respondent No.2-complainant for and on account of demand of dowry. It has further been made out that the articles including jewellery belonging to the complainant were taken away from her and handed over to the petitioner.

Though in the judgments relied upon by the learned counsel for the petitioner, it has been held that in most of the

cases, the brothers, sisters, sisters-in-law and other relatives of the husband are implicated in the dowry related matters just to widen the array of the accused. It has further been ruled that every High Court has inherent powers to act *EX DEBITO JUSTITIAE* to do real and substantial justice, for the administration on which alone it exists, or to prevent abuse of the process of the Court.

Perusal of the above judgments cited by the learned counsel for the petitioner would further reveal that the proceedings could be terminated when no specific allegations of cruelty or misappropriation against the accused are levelled. But in the case in hand, perusal of the material available on record would clearly reveal that there are specific allegations against the petitioner for and on account of demand of dowry.

In para 10 of the judgment in the case of **Bhaskar Lal Sharma** (supra), while discussing the scope and ambit of the Court's power to quash a criminal proceeding, it was held as under:-

“10. The facts, as alleged, therefore will have to be proved which only be done in the course of a regular trial. It is wholly unnecessary for us to

embark upon a discourse as regards the scope and ambit of the Court's power to quash a criminal proceeding. **Appreciation, even in a summary manner, of the averments made in a complaint petition or FIR would not be permissible at the stage of quashing and the facts stated will have to be accepted as they appear on the very face of it.**

This is the core test that has to be applied before summoning the accused. Once the aforesaid stage is overcome, the facts alleged have to be proved by the complainant/prosecution on the basis of legal evidence in order to establish the penal liability of the person charged with the offence.” (emphasis added)

In the matter of **Minakshi Bala** (supra), Hon'ble the Supreme Court held as under:-

“3. Having carefully gone through the impugned order we are constrained to say that the entire approach of the High Court in dealing with the matter is patently wrong and opposed to settled principles of law. As earlier noticed, the petition under Section

482, Cr.P.C. was filed in the High Court at a stage when the police had already submitted charge-sheet on completion of investigation and when the petition came up for hearing a competent court had not only cognizance thereupon but framed charges also. In spite thereof, the High Court, surprisingly enough, proceeded to deal with the matter as if it was called upon to decide whether the FIR disclosed any offence and, for that matter, whether investigation should be permitted to continue. This will be evident from the following observations made by the High Court:-

'The principles relating to the quashing of the FIR at its initial stage were considered by their Lordships of the Supreme Court in **State of W.B. Vs Swapan Kumar Guha**, (1982) 1 SCC 561.

Their Lordships observed therein that once an offence is disclosed, an investigation into the offence must necessarily follow in the interest of justice. If, however, no offence is disclosed, an investigation cannot be permitted, as any investigation, in the absence of any offence being

disclosed, will result in unnecessary harassment to a party, whose liberty and property may be put to jeopardy for nothing.'"

In view of what has been discussed hereinabove, no ground for quashing of the FIR and consequential proceedings arising therefrom is made out at this stage.

Dismissed.

February 2, 2015
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(NARESH KUMAR SANGHI)
JUDGE