

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

CRM-M No.25994 of 2013 (O&M).

Date of Decision: May 04, 2015.

HITESH SHARMA AND ANOTHER

...PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

1. Whether the judgment should be reported in the digest? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No

Present: Mr. D.S. Gurna, Advocate for the petitioners.

Ms.Trishanjali Sharma, Assistant Advocate General, Haryana.

Mr. Rakesh Dhiman, Advocate for respondent No.2.

SNEH PRASHAR, J.

Hitesh Sharma and his mother Shakuntla Devi had filed this criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure (in short, “Cr.P.C.”) for quashing of First Information Report No.290 dated 08.06.2013 under Sections 498-A, 406 and 506 of the Indian Penal Code (in short, “I.P.C.”) registered at Police Station Sector-5, Gurgaon.

2. Briefly, the marriage between the parties was solemnized on 16.05.2010. The first wife of petitioner Hitesh Sharma had died due to kidney disease and complainant Daya was a divorcee. Hitesh Sharma had a five years old child to look after from his first marriage. Soon after marriage, a marital discord cropped up between the parties and Hitesh Sharma filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955 on 04.05.2013. Complainant Daya-wife lodged a complaint on the basis of which First Information Report No.290 dated 08.06.2013 under Sections 498-A, 406 and 506 I.P.C. was registered at Police Station Sector-5, Gurgaon.

Petitioners filed the instant petition alleging that the First Information Report lodged by complainant Daya was nothing but a counter blast to the divorce petition filed by Hitesh Sharma. The allegations incorporated in the First Information Report were also alleged to be false and baseless. They denied that they had ever demanded money or had treated the complainant with cruelty. It was also submitted that complainant Daya had got registered First Information Report No.269 dated 15.03.2007 against her first husband Sanjeev and four members of his family under Sections 307, 323, 352, 341, 506, 498-A and 120-B read with Section 34 I.P.C. at Police Station Dwarka, District South West, Delhi and the First Information Report in the said case was quashed by the Delhi High Court on the compromise arrived at between the parties. Alleging that the First Information Report was nothing but an abuse of process of law, a prayer for quashing the same was made.

3. Respondent No.2-complainant Daya appeared and contested the petition. CRM No.11720 of 2014 was filed by her for dismissing the petition on the ground of violation of the order dated 28.01.2014 of this Court by petitioner Hitesh Sharma.

4. Heard the submissions made by Mr. D.S. Gurna, learned counsel representing the petitioners, Ms. Trishanjali Sharma, Assistant Advocate General, Haryana and Mr. Rakesh Dhiman, learned counsel representing respondent No.2.

5. Learned counsel for the petitioners argued that the allegations of respondent No.2 Daya are vague and fabricated. No particular incident of cruelty or demand of dowry etc. could be narrated by her in the complaint. No list of dowry articles complying with the provisions of the Dowry Prohibition (Maintenance of List of Presents to the Bride and Bridegroom) Rules, 1985, could be provided by the complainant alongwith her complaint and in absence of the same no case under Section 406 I.P.C. could be registered against the petitioners.

6. On perusal of the record, it transpires that vide order dated 08.08.2013 on request made by learned counsel for the petitioners, a notice was issued to respondent No.2-complainant Daya to examine possibility of settlement between the parties by referring them to the Mediation and Conciliation Centre of this Court. Petitioners were also directed to deposit Rs.25,000/- in the Registry in order to facilitate the complainant to appear and engage a counsel. Complainant Daya appeared through counsel on the date fixed i.e. 11.10.2013 and the matter was referred to the Mediation and

Conciliation Centre of this Court directing the parties to appear before the said Centre on 18.11.2013. On 18.11.2013, the parties appeared appeared before the Mediator and a settlement/agreement took place between them which was reduced into writing by the Mediator on the same day i.e. 18.11.2013 and the case was sent back to the Court for appropriate order. It is reflected in the order dated 28.01.2014 passed by this Court that in view of settlement between the parties, petitioner Hitesh Sharma and respondent No.2 Daya had gone together from this Court to the matrimonial home. On request of learned counsel for respondent No.2 that the petition be kept pending for some time to watch the conduct of petitioner Hitesh Sharma, the petition was adjourned to 08.04.2014.

7. It was submitted on behalf of respondent Daya that she accompanied petitioner Hitesh Sharma on 28.01.2014, who took her to Hotel Taj, Sector-17, Chandigarh, but on the pretext that he was going to drop his counsel at Chandigarh Airport he left at 3:15 p.m. and never returned thereafter. His mobile was also found to be switched off. Complainant Daya and her father waited for him at the reception of the hotel till 8:45 p.m. and ultimately apprising of the hotel staff at the reception of the entire matter they lodged Daily Diary Report No.31 dated 28.01.2014 at Police Post Neelam, Sector-17, Chandigarh. Thereafter, mischievously petitioner Hitesh Sharma got registered First Information Report no.82 dated 20.02.2014 under Sections 420, 406 and 395 I.P.C. at Police Station Christianganj, Ajmer (Rajasthan), alleging that on 02.02.2014 complainant Daya, her father Raj Kumar, paternal uncle Satish

and maternal uncle Shiv Raj alongwith two other persons had come to his house and had taken away ornaments of his mother.

8. Learned counsel for respondent No.2 submitted that the investigation conducted by the police reveals that the allegations of petitioner Hitesh Sharma were false and concocted, only with an intention to get rid of his wife-complainant Daya. He had tried to use law as a tool in his hands. The police had filed a cancellation report in First Information Report No.82 dated 02.02.2014 and prosecution of Hitesh Sharma under Section 182 Cr.P.C. had been recommended.

9. It is apparently a misconception on part of the petitioners that the allegations of complainant Daya in her complaint which formed the basis of registration of First Information Report No.290 dated 08.06.2013 under Sections 498-A, 406 and 506 I.P.C. against the petitioners are vague or general in nature. The allegations are quite specific and serious. More so, the conduct of petitioner Hitesh Sharma during pendency of the present petition shows that he was playing hide and seek and was not conducting himself in a clean and clear manner.

In view of aforesaid facts and circumstances, there appears no ground for quashing of the First Information Report registered against the petitioners and accordingly the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

May 04, 2015
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