

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRM-M-34628-2008

Decided on: 29.07.2015

SayedPetitioner

vs.

State of Haryana and anotherRespondents

Coram: Hon'ble Mr. Justice Mahesh Grover

Present: Mr.Gurcharan Dass, Advocate for the petitioner.
Mr. Kuldeep Tiwari, Addl. A. G. Haryana.
Ms. Vandana Sharma, Advocate for respondent no.2.
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Mahesh Grover, J

The petitioner impugns the order of summoning dated 09.09.2006 (Annexure P5) passed by Sub Divisional Judicial Magistrate Nuh in exercise of the power under Section 190 Cr.P.C and also order dated 13.12.2008 passed by Additional Sessions Judge, Gurgaon.

The dispute has occurred on account of marital discord and the contents of the FIR are extracted here-below:-

“12. Details of FIR:- To the Senior Superintendent of Police, Gurgaon- Subject-Application for legal action against husband Imran Khan son of Shayeed 2. Father-in-law Shayeed s/o Aasar Khan 3. Mother-in-law Smt. Fajri @ Fajji w/o Shayed 4. Devar Israj s/o Saheed, all residents of House No. 565/16, Om Nagar, Gurgaon---- Sir, I Aina alias Mumtaj wife of Imran Khan and d/o Mohd. Akbar r/o Pathaini, Police Station Tavru, District Gurgaon make the following prayer that three years earlier I was married with Imran Khan s/o Shayeed r/o 565/16, Om Nagar, Gurgaon as per Muslim rites. In my marriage, my father had given sufficient dowry, which included one maruti car 800 CC, Rs.1,52,000/- cash, 30 tolas of gold, 2 ¼ KG silver ornaments and all essential home items, list of which is attached herewith, but my in-laws were not happy with these dowry items and they asked me to get the maruti car replaced with a Qualis Vehicle and Rs.3,00,000/- cash. I said that my father has not hidden anything from me, but they did not hear me and started

harassing me for dowry. They behaved with me as like servant. Regarding this I had also given a complaint in the Women Cell, Gurgaon, where they paid bribe and I was pressurised to go to my matrimonial house. (2) That the Women Cell, Gurgaon after hearing the accused persons had got the matter settled as the boy side had said that they will not ask for dowry and will not beat me and will keep her well. From Gurgaon, my husband Imran Khan, father-in-law Shayed and mother-in-law Fajri took me directly to village Lakhunaka. On the same day, they left me closed in a room at village Lakhunaka and came to Gurgaon. On the next day, my husband Imran Khan and father-in-law Shayed, mother-in-law Fajri opened at 2:00 p.m. I was kept locked in the room without food and water and my husband, father-in-law and mother-in-law said that they will treat me like this, till you get Rs.3,00,000/- and Qualis vehicle. My brother-in-law (devar) said that till this black face woman does not bring Rs.3,00,000/-, we will treat him like this. Our brother Imran has been looted, otherwise, he would have been married in a higher family. My father-in-law, mother-in-law, my husband and my Devar gave me beatings in a closed room and my father-in-law pushed me out by holding my hair and said that throw her out, we will marry son again. Imran threw me out of the house with three clothes after giving me bearings and kept all the ornaments with him and threatened that if I take any legal action against him, then they will kill me. He further said that I am an Advocate and will lodge false cases against your father. (3) That I came to my father's house and then I along with my father and Aas Mohd., s/o Ismail r/o Ghaseda went to my matrimonial house at Gurgaon and asked my in-laws as to why they threw me out, on which they responded that they will not keep me. We said that all dowry articles be given back, on which they said either go away, otherwise, you will be killed. (4) That I have a daughter of 2 ½ years from the loins of my husband Imran, who is with me. All the family members had been taunting me for giving birth to a girl. (5) That my father is a retired army personnel and I am their only daughter. (6) That my husband has celebrated second marriage and he resides with her. My husband and myself have threat to our lives from the accused persons. Therefore, it is requested that I be given justice. I shall be thankful.”

The important fact to be noticed is that all other accused persons i.e the husband, mother-in-law and the brother-in-law of the complainant faced trial and were acquitted of the charges against them which acquittal has been upheld by this Court. The petitioner is the father-in-law who was summoned subsequently under the provisions of Section 190 Cr.P.C. The FIR would reveal general allegations against him and in any case if the allegations of harassment against the remaining accused have been disbelieved by as many as three courts, there would be no reason to accept the same as against the petitioner who is the father-in-law and has been assigned the same role as of other accused.

Thus, in the considered view of this Court even if the prayer of the complainant is accepted and the present petition dismissed to send the petitioner into the throes of trial, it would serve no purpose as the charges against the petitioner would remain unsubstantiated. There cannot be any better evidence led by the petitioner against the other accused then the one that may come on record against the petitioner, particularly when he has been mentioned in the same wreath without their being any specifics.

Consequently, the petition is accepted and the impugned order dated 09.09.2006 (Annexure P5) and order dated 13.12.2008 are, hereby, quashed.

29.07.2015
mamta

(MAHESH GROVER)
JUDGE