

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Crl. Misc. No. M-30163 of 2013 (O&M)
Date of decision : 11.03.2015

Vijay Kumar Kaura and anr.

....Petitioners

versus

U.T. Chandigarh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. A.S. Narang, Advocate
for the petitioner

Ms. Ashima Mor, Advocate
for U.T. Chandigarh

Mr. Vivek Arora, Advocate
for respondent No. 2

RITU BAHRI, J.

In the present petition filed under Section 482 Cr.P.C, quashing of FIR No. 118 dated 11.04.2012 under Sections 406/498-A IPC registered at P.S. Sector 11, Chandigarh and all subsequent proceedings arising therefrom, is being sought

Brief facts of the case are that petitioner's son Bhupesh Kumar Kaura and respondent No. 2-complainant got married as per Hindu rites on 26.06.2004 at Chandigarh. The complainant started residing with her husband thereafter. Bhupesh Kumar was suffering from initial stages of schizophrenia. This fact was duly disclosed to respondent No. 2 as well as parents at the time of marriage. In order to settle their son, petitioners decided to start a business for their son so that the couple could get a platform to build their life. Petitioner No. 1 took up the first floor of the premises at a monthly rent of Rs.6000/-

w.e.f 10.04.2004 from father of respondent No. 2, who was in occupation of SCO No. 219, Sector 40-D, Chandigarh. Father of respondent No. 2 himself was paying Rs.5000/- as rent to the landlord and thus he was earning Rs.1000/- from the petitioners. Photocopies of some of the cheques issued for rent to Vijay Kumar Seth-father of respondent No. 2 as well as passbook entries are collectively appended as Annexure P-2 colly. Thereafter, due to failure of business, respondent No. 2 and her parents were not happy and the relationship between Bhupesh Kumar Kaurs and respondent No. 2 became strained. As a result, she left the company of her husband and moved back to her parent's house in July/August 2005. At that time, respondent No. 2 as well as her parents demanded a fixed montly income for respondent No. 2 to the tune of Rs.2000/- per months. Accordingly, petitioner No. 1 deposited Rs.3,00,000/- in the name of his son as Post Office Deposit under the monthly income scheme wherein the complainant would get Rs.2000/- per month for her personal expenses (P-4). Petitioner No. 1 thereafter, wrote a letter to respondent No. 2 on 30.09.2005 informing about the investment made in the monthly income scheme and also requesting father of respondent No. 2 to send her back so that she could join the company of her husband (P-5). But despite request, she did not join the company of her husband. Another letter dated 21.10.2005 was written to father of the complainant. The petitioner's had also given a sum of Rs.6,05,000/- as loan to father of respondent No. 2. So in letter dated 21.10.2005, petitioner No. 1 requested father of respondent No. 2 to return the above said amount (P-6). This money was neither returned nor did he deny that he had taken the money at the time. However, towards the end of year 2005, respondent No. 2 again joined her

husband's company. Thereafter, a civil suit was filed by father of respondent No. 2 for permanent injunction against petitioner No. 1 as well as landlord of the premises on 06.11.2005 wherein it was alleged that petitioner No. 1 was illegally interfering in the possession of Vijay Kumar Seth and wanted to occupy the premises (P-7). The learned trial Court dismissed the injunction application as the suit prima facie was held to be not maintainable, vide order dated 12.12.2005 (P-8). In this order, the landlord's pleading are categorically recorded to the effect that Vijay Kumar Seth had taken the premises on rent at a lower rate while he had sublet the premises to petitioner No. 1 at a much higher rate. Thus, Vijay Kumar Seth withdrew the suit and filed another suit against petitioner No. 1 and landlord of the premises claiming the relief of possession, vide plaint dated 16.12.2005 (P-9) with the allegations that he had set up the handloom business in the premises and petitioner No. 1 was only managing the business. Thus, the relations between the families remained strained, which resulted into strained relationship between Bhupesh Kumar Kaura and her wife and ultimately, respondent No. 2 demanded a separate residence from Bhupesh Kumar Kaura, which resulted in an altercation on 14.07.2010 wherein respondent No. 2 had manhandled her husband. Thereafter, they started residing separately. In order to extract money from the petitioners, respondent No. 2 filed a complaint on 11.08.2010 against the petitioners as well as their son (P-10), which remained pending for a period of 02 years. Thereafter, without any proper inquiry, the above said F.I.R was registered in which the challan has been presented (P-11).

Learned counsel for the petitioners is seeking quashing of the F.I.R against the petitioners on the ground that the allegations against

the petitioners who are father-in-law and mother-in-law are general in nature. Reference has been made to order dated 07.08.2012 (P-15) whereby the anticipatory bail granted to the petitioners was made absolute. In the order, it has been specifically mentioned that petitioners have joined the investigation and most of the dowry articles as claimed by the complainant have been recovered. Further it is not in dispute that husband of the complainant is a mentally challenged person, suffering from schizophrenia and receiving treatment from GMCH, Sector 32, Chandigarh.

On notice, a reply has been filed by respondent No. 2 in the present petition and it has been denied that any letter has been written by petitioner No. 1 to father of petitioner No. 2 as the parties are living just two kilometers away from each other. The allegations of harassment have been reiterated. It is denied that respondent No. 2 or her parents were ever informed about any problem of the son of the petitioners rather they had committed cheating with respondent No. 2 and her family was told that Mr. Bhupesh Kumar Kaura had done B.Tech from PEC, Chandigarh. It has been admitted that money was deposited in the account of son of petitioners and petitioner No. 2 was made nominee of that account.

Heard learned counsel for the parties.

At the very outset, reference can be made to order passed by the trial Court on 07.08.2012 (P-15) whereby the anticipatory bail granted to the petitioners as well as their son, was made absolute. It is no longer in dispute that son of the petitioner was suffering from schizophrenia and is receiving treatment from GMCH, Sector 32, Chandigarh.

Challan has been presented against the petitioners and their son and dowry articles have been recovered. The allegations against the present petitioners that they had not disclosed to the complainant that their son is suffering from schizophrenia since 1992 and when the complainant came to know about this problem, she was threatened by the petitioners to not to disclose this fact to anyone and was further told that they will divorce her and will throw out of the house. It was further alleged that Rs.2 lacs had been demanded by the petitioners for setting up the business of their son. Petitioner No. 1 sold the property share of the husband of respondent No. 2 with mala fide intention and did not give the complainant a single penny.

This Court has to examine now the harassment caused by the petitioners to respondent No. 2.

A perusal of the civil suit filed by father of the complainant (P-7) against the landlord and petitioner No. 1 and dismissal of injunction application goes to show that complainant's father had given its first floor of the shop to settle his daughter by helping his son-in-law to set up business. This civil suit was withdrawn by the complainant's father when the marriage ran into rough weather. Thereafter, the second suit was filed by the complainant's father seeking relief of possession of the premises was filed on 16.12.2005 (P-9) The above facts goes to show that an attempt was made by both the families to settle the couple so that could lead a happy life. When the business of the son of the petitioners failed, the relationship between the couple as well as between the families became strained. Petitioner No. 1 in order to secure the daughter of the complainant had deposited Rs.3,00,000/- in the name of his son as Post Office Deposit under the monthly income

scheme wherein the complainant would get Rs.2000/- per month for her personal expenses (P-4). This fact has not been denied by the respondent No. 2 in her written statement. Further it is stated that amount was deposited in the account of the son of the petitioners and petitioner No. 2 was made nominee.

This Court vide order dated 14.01.2015 had made an attempt to explore the possibilities of compromise between the parties by referring them to Lok Adalat and as per report dated 28.01.2015, no compromise could be affected between the parties.

Reference at this stage can be made to catena of judgments passed by this Court as well as Hon'ble the Supreme Court i.e Preeti Gupta and another vs. State of Jharkand and anr, 2010 (7) SCC 667, Ramesh and others vs. State of Tamil Nadu, 2005(3) SCC 507 Bhushan Kumar Meen vs. State of Punjab and others, 2011(4) R.C.R (Criminal) 144, Ms. Anu Gill vs. State, 2002(1) R.C.R (Criminal) 82, Ghusabhai Raisangbhai Chorasiya and others v. State of Gujrat passed in Crl. A. no. 262 of 2009, decided on 18.02.2015 by Hon'ble the Supreme Court, Geeta Mehrotra and another vs. State of U.P and anr., 2012(4) RCR (Crl) 812 and Gurpal Chand Kataria @ Gupral vs. Pawan Kumari, 2014(2) Law Herald 1060 wherein it has consistently been held that in F.I.R's/complaints arising out of the matrimonial dispute vague and general allegations against the in-laws shall not constitute any offence under Section 498-A IPC. The family members of the husband cannot be forced to face a criminal trial proceeding which in itself is a punishment.

Learned counsel for the petitioner has placed on record copy of the suit (P-16) which has been filed by the complainant against the present petitioners and their son restraining them or their agents from

alienating the said property by way of sale, transfer, will, mortgage to anybody either in relations or outside their relations.

After going through entire pleadings, respondent No. 2 and her family members has been pursuing their civil litigation as well as criminal litigation with regard to the possession of the property. The son of the petitioners is suffering from schizophrenia and is a mentally challenged person and is receiving treatment and the petitioners being parents are bound to look after him. The allegations against the petitioners are general in nature.

In view of the judgments mentioned above, FIR No. 118 dated 11.04.2012 under Sections 406/498-A IPC registered at P.S. Sector 11, Chandigarh is quashed qua petitioners.

11.03.2015
G Arora

(RITU BAHRI)
JUDGE