

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

**Crl. Misc. No. M-33229 of 2014
Date of decision : 01.09.2015**

Partap Singh & Ors.

..... Petitioners

versus

State of Haryana & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Argued by: Mr. Parminder Singh, Advocate
for the petitioners.

Mr. Deepak Kr. Grewal, DAG Haryana.

Mr. Sushil Jain, Advocate
for respondent No.2.

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No. 396 dated 28.11.2013, registered under Sections 406, 498-A and 34 IPC at Police Station Shahbad, District Kurukshetra and subsequent proceedings.

The facts, necessary for disposal of the instant petition are being noticed first.

Complainant-respondent No.2 Kavita was married to Subhas on 12.12.2010. Out of the wedlock, a male child Hitesh was

born. Petitioners No.1 and 2 are the parents-in-law while petitioner No.3 is jethani of complainant.

Respondent No.2 got the FIR registered against her husband, Jeth Mukesh and the present petitioners on the allegations that sufficient dowry was given but the accused were not satisfied. She had further alleged that on the instigation of the petitioners, her husband used to harass and maltreat her and they raised a demand of a motor-cycle. A panchayat was convened and adhering to the advice of panchayat, she along with her husband started living together in separate accommodation from May 2012 onwards. The husband had stopped coming to the rented accommodation for last about two months and he had instituted a divorce petition. It was further alleged that the accused had misappropriated the dowry articles.

On these broad allegations, a case was registered and investigated. Challan has been filed in the Court.

In the reply filed on behalf of the State, it was pleaded that specific allegations had been levelled by the complainant. During investigation, involvement of petitioners and the husband was found while Mukesh was found to be innocent. It was pleaded that challan was submitted and the Court had framed charges under Sections 406 and 498-A IPC and trial was going on.

In the reply filed on behalf of respondent No.2 it was

reiterated that there are specific allegations against the petitioners. It was further averred that the petitioners had been charge-sheeted by the Court and they had an alternative remedy of challenging the said order and the petition was not maintainable.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for petitioners had urged that the petitioners had no concern with the matrimonial life of the complainant, who along with her husband had been residing separately since May 2012. He had contended that the petitioners being the relatives of the husband have been roped in falsely to settle scores and to widen the net. He had further urged that the petitioners cannot be said to be beneficiary to the alleged demand of a motor-cycle. According to him, no specific instance of harassment was given.

Learned State counsel assisted by counsel for the complainant had submitted that there were specific allegations against the petitioners who were found instrumental in the harassing and maltreating the complainant for bringing more dowry. It was submitted that charge had been framed and the petition was not maintainable.

The question that arises is whether the FIR and the subsequent report under Section 173 Cr.P.C. and subsequent charge sheet can be quashed in exercise of the powers under Section 482

Cr.P.C.

The Hon'ble Supreme Court in the case of **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)**, had observed that a tendency had developed for roping all the relations in dowry cases and if it was not discouraged, it was likely to affect the case of the prosecution even against the real culprits.

In **Anita & Ors. Vs. State of Punjab, 2003(4) RCR (Criminal) 313**, when a first information report was lodged by the wife under Sections 498-A and 406 of the Indian Penal Code against the entire family members of the husband, this Court exercising its powers under Section 482 Cr.P.C. had quashed the FIR and had observed that there was a tendency to involve all the relatives of the husband when the relations between the husband and the wife become strained.

Similarly, in the case of **Harjinder Kaur & Ors. Vs. State of Punjab, 2004(4) RCR (Criminal) 332**, a criminal complaint was filed under Sections 498-A and 406 IPC against the husband, his parents and 5 sisters. The proceedings qua sisters were quashed as the allegations against the sisters were found to be vague and exaggerated and made to rope in each and every relation of the husband.

In **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR(Crl.) 527**, the Hon'ble Apex Court observed that the fact that Section 498-A IPC is a cognizable and non-bailable offence had lent

it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

In the case of **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 2010 AIR (SC) 3363** the Hon'ble Apex Court observed that a serious relook of the entire provisions of Section 498-A IPC is warranted by the legislation. It was observed that exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a very large number of cases. In that case the Hon'ble Apex Court quashed the criminal proceedings against brother and sister of husband, living separately.

In the instant case, from a perusal of FIR, it is abundantly clear that there are no allegations of entrustment of dowry articles to the petitioners. There is not a whisper that any istridhan was handed to the petitioners. Entrustment is sine quo non for proving the offence under Section 406 IPC, which is conspicuously missing in the present case. Coming to the alleged offence under Section 498-A IPC, a perusal of FIR would reveal that no specific date or time was mentioned therein when the complainant was harassed, maltreated or beaten up by the present petitioners for dowry. No MLR has been placed on record. It has come on record and admitted by the complainant that she along with her husband had started living

separately since May 2012. The allegation against the petitioners is of instigation which is vague, omnibus and general in nature and appears to have been made out of the frustration who failed to maintain her matrimonial alliance as the husband had filed a divorce petition against her. It cannot be believed that the petitioners would be a beneficiary from the alleged demand of motor cycle. No date or time of the said demand has been mentioned.

The plea of respondents about the non-maintainability of the petition after framing of charge can very well be answered by referring to **Satish Mehra Vs. State of N.C.T. of Delhi & Anr. AIR 2013 SC 506**, wherein it has been observed thus:-

“15. The power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations made in the FIR or the criminal complaint, as may be, prima facie do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be exercised sparingly and only if the attending facts and circumstances satisfies the narrow test

indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed. However, if so warranted, such power would be available for exercise not only at the threshold of a criminal proceeding but also at a relatively advanced stage thereof, namely, after framing of the charge against the accused. In fact the power to quash a proceeding after framing of charge would appear to be somewhat wider as, at that stage, the materials revealed by the investigation carried out usually comes on record and such materials can be looked into, not for the purpose of determining the guilt or innocence of the accused but for the purpose of drawing satisfaction that such materials, even if accepted in its entirety, do not, in any manner, disclose the commission of the offence alleged against the accused.”

Furthermore, in the case of **State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC)**, the Hon'ble Supreme Court had observed that where the proceeding is instituted with an ulterior motive or where the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/ FIR

In the considered opinion of this Court, the allegations made in the complaint are absurd and improbable and warrants interference by this Court for quashing all the proceedings against the petitioners with an object to meet the ends of justice and prevent

abuse of the process of the Court, in exercise of powers under
Section 482 Cr.P.C.

In view of the discussion made above, the instant petition
is allowed. The impugned FIR and consequent proceedings taken
therein, against the petitioners, are quashed.

01.09.2015

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**(ANITA CHAUDHRY)
JUDGE**