

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

**Crl. Misc. No. M-34744 of 2014
Date of decision : 23.07.2015**

Vipin & Anr.

..... 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. Harish Bhardwaj, Advocate
for the petitioners.

Mr. D.K. Grewal, DAG Haryana.

None for respondent No.2.

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No. 196 dated 21.07.2014, registered under Sections 323, 406, 498-A, 506 and 34 IPC at Police Station Gohana, City and the subsequent proceedings.

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

Complainant-respondent No.2 Prem Lata @ Pummy was married to Manish son of Asha Nand on 16.12.2013. Petitioner No.1 is brother of Manish and petitioner No.2 is his wife.

Respondent No.2 got the FIR registered against her husband, father-in-law, mother-in-law and the present petitioners on the allegations that her parents had given Rs.10,000,00/- cash for dowry articles and jewellery worth Rs.3,000,00/-. In the initial one month, all was well but a demand of Rs.5,000,00/- was made for purchasing more articles. When complainant showed her inability, the accused started beating her. Taunts were thrown at her for bringing less dowry. Accused Manish, Ashanand and Vipin used filthy language after consuming liquor. The complainant went to her parental home to attend her sister's wedding and returned on 06.05.2014. On that day Manish gave kick and fist blows; her mother-in-law Sneha pulled her hair and accused Meena and Vipin threw her from the stairs and father-in-law slapped her. She was turned out of the matrimonial home and threats were given. She was asked to bring Rs. 5 lacs from her father.

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

Notice of the petition was issued but today none has appeared on behalf of respondent No.2.

In the reply filed on behalf of the State, it was pleaded that specific allegations had been levelled by the complainant and the petitioners and during investigation their involvement in the offence was found and the case was rightly registered against the petitioners and others.

I have heard learned counsel for the petitioner and State counsel 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 and they were married much prior to the marriage of the complainant i.e. on 17.07.2011 and since then they are residing separately. It was urged that respondent No.2 concealed the factum of her previous marriage and got married to Manish. Elaborating his arguments, learned counsel had urged that respondent No.2 also made a complaint against her first husband and his relatives on similar allegations of demand of dowry and harassment and in that case she took handsome amount for withdrawing the case and she was in habit of filing false cases. He had further urged that the petitioners are relatives of the husband and have been roped in this case falsely to settle scores and to widen the net. He further urged that the petitioners had no occasion to raise any demand of dowry and Manish had already been disowned by his father. According to him, no specific instance of harassment was given.

Learned State counsel had submitted that there are specific allegations against the petitioners who were found instrumental in the harassing and maltreating the complainant for bringing more dowry. It was further submitted that charge against the petitioners has been framed and this quashing 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. quashed the FIR and observed that there is 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 and the proceedings qua sisters were quashed as the allegations against the sisters were vague and exaggerated allegations had been 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 the 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 no whisper in the FIR that the amount or any part thereof, which was allegedly given to the complainant by her parents, was handed over to the petitioners for purchasing dowry articles. A perusal of FIR would reveal that the only allegation against petitioner Vipin is that he along with Manish and Ashanand used filthy language after consuming liquor. Further, in the FIR the role attributed to the petitioners is that on 06.05.2014 they threw the

complainant from the stairs. No MLR has been placed on record. The allegations are vague, omnibus and general in nature and appears to have been made out of frustration. The petitioners are living separately since their marriage. It cannot be accepted that the petitioners would be beneficiaries of the demand. No date or time of the said demand has been mentioned. There is a general tendency to involve all members of the in-laws family in matrimonial disputes and this case is one of the examples.

The plea of respondents about the maintainability of the petition after the charge is framed, 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 was held:-

“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.”

In 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 of meeting the ends of justice and preventing abuse of the process of the Court.

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.

23.07.2015

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**(ANITA CHAUDHRY)
JUDGE**