

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

**Crl. Misc. No. M-40662 of 2012(O&M)
Date of decision : 27.03.2015**

Kulvir Kaur @ Veero

..... Petitioner

versus

State of Punjab & Anr.

... Respondents

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

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Sarju Puri, Advocate
for petitioner.**

Mr. Deep Singh, AAG Punjab.

**Mr. Divyadeep Walia, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Through the present petition filed under Section 482 Cr.P.C., the petitioner Kulvir Kaur @ Veero is seeking seeking quashing of FIR No. 05 dated 08.04.2012, registered at Police Station Women Cell, Bathinda under Sections 406 and 498-A IPC.

The petitioner is the married elder sister of Gurjit Singh Dhillon who was married to complainant Amandeep Kaur on 21.02.2010.

A complaint was filed against Gurjit Singh, his parents Gurmail Singh and Amarjit Kaur, elder brother-in-law (Jeth) Kulwinder Singh, his wife Kulvir Kaur @ Raj, Kulvir Kaur @ Veero and Maninderjit Kaur, sisters-in-law and Harbhajan Kaur, grandmother-in-law. It was alleged

that the parents gave sufficient dowry which were handed to the accused. Petitioner Kulvir Kaur was given ear-rings and a suit. Seven lacs in cash was given to Gurjit Singh. The istridhan was handed over to Gurmail Singh and Amarjit Kaur. The accused were not satisfied and used to harass and maltreat the complainant for bringing more dowry and a car. The accused promised to take her to Canada after the marriage but did not fulfill the same. In the complaint, it was mentioned that petitioner often gave beatings to the complainant. The complainant was turned out of her matrimonial home in September, the same year. The complainant demanded her istridhan from the accused. Allegations levelled against the accused were of misappropriation. It was alleged that the istridhan was lying in the custody of Harbhajan Kaur and Kulvir Kaur.

The complaint was enquired into and FIR was registered against Gurjit Singh, Gurmail Singh, Amarjit Kaur and the present petitioner. Kulwinder Singh, Kulvir Kaur @ Raj, Maninderjit Kaur and Harbhajan Kaur were found innocent.

The petitioner has sought quashing on the plea that she was married to Harbans Singh of village Ghumandgarh, District Fatehgarh Sahib much prior to the marriage of the complainant. To support the assertion copy of ration card (Annexure P-1) and identity card (Annexure P-2) issued by the Election Commission was filed.

Learned counsel had urged that the petitioner had no occasion to interfere in the married life of the couple and to settle scores and to widen the net, the complainant has falsely implicated her. It was urged that the allegations against the petitioner were vague and general in nature and

no specific instance of harassment was given. It was vociferously contended that the istridhan would not be entrusted to married sister-in-law. Elaborating the arguments, it was contended that the articles which were allegedly given to the petitioner cannot be termed as dowry articles and at the most the same can be said to be customary gifts. To support his contentions, reliance had been placed on **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR(Crl.) 527**, **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 2010 AIR (SC) 3363**, **Swapnil & Ors. Vs. State of Madhya Pradesh 2014(3) RCR(Crl.) 99**, **Avdesh Sharma Vs. State of Haryana 2014(3) RCR(Crl.) 379**, **State by Hal Police, Bangalore City Vs. Mohammed Nakeed & Ors. 2011(8) RCR(Crl.) 351**, **Gurdeep Kaur Vs. Balbir Singh & Ors. 2005(2) RCR(Crl.) 205**, **Gurdev Singh Vs. Smt. Nachhattar Kaur @ Mandir Kaur 1993(3) RCR(Crl.) 328**, **Jasmin & Anr. Vs. State of Haryana & Anr. 2008(4) RCR(Crl.) 228**, **Harjinder Kaur & Ors. Vs. State of Punjab, 2004(4) RCR(Crl.) 332** and **Lakhwinder Singh Vs. State of Punjab 2000(4) RCR(Crl.) 104**

In the detailed reply filed on behalf of the State the action of registration of FIR against the petitioner and others has been justified. It has been contended that the petitioner had harassed the complainant for bringing more dowry and she used to instigate her brother by concocting false stories. It has been averred that Gurjit Singh, Gurmail Singh and Amarjeet Kaur were absconding and they were declared proclaimed offender.

Learned counsel for the complainant had urged that there are specific allegations against the petitioner of entrustment of dowry and

misappropriation thereof and she was instrumental in harassment to the complainant in relation to the demand. He has further urged that charge has been framed against the petitioner and the petition is liable to be dismissed on this score alone. He further contended that in the petition for anticipatory bail, the petitioner had given her address of village Pandhori Ladha Singh Wala, which belies her plea.

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 against the unmarried sisters and brothers and had observed that it was not believable that the unmarried sisters or unmarried brother of the husband would be entrusted with any article of dowry separately. 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's case (supra), 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 (supra) 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.

Similarly in the instant case, the allegations, so far as petitioner are concerned, are omnibus and are general in nature and appears to be an outcome of frustration of the complainant as the husband and his parents had left for Canada leaving her behind. It is a general tendency to involve each and every member of the in-laws family in cases of matrimonial dispute. It is relevant to mention here that the married sisters-in-law i.e. the present petitioner and grand mother-in-law are in India while the husband, parents-in-law, brother-in-law and his wife are abroad. It has come on record that the petitioner was married prior to the marriage of the complainant. The ration card (Annexure P-1) was issued in the year 2006, reveals that the petitioner is residing at village Ghumandgarh, District

Fatehgarh Sahib along with her husband and son. Annexure P-2 i.e. identity card issued by the Election Commission of India shows that the petitioner is a resident of H.No.57, Village Ghumandgarh, Tehsil Bassi Pathana, District Fatehgarh Sahib. These documents go to show that the petitioner was residing separately. These documents cannot be ignored only on account of the fact that the petitioner in her petition for anticipatory bail had given her address of village Pandhori Ladha Singh Wala.

The allegations made in the FIR refer to the beatings, but no specific instance of harassment and cruelty in relation to demand of dowry exist. It has been mentioned in the FIR that the other accused had left for Canada and the istridhan was lying in the custody of grand mother-in-law Harbhajan Kaur and the present petitioner. But, as noticed above, the petitioner is residing separately from the complainant and it cannot be expected that she was in custody of istridhan of complainant. Even otherwise, there is no whisper that the complainant had handedover her istridhan to the petitioner. The petitioner was given a ear-ring and a suit in the marriage which cannot be termed as dowry. At the most it can be called a customary gift, as held in Mohammed Nakeed's case (supra). Similar view has been reiterated by this Court in Avdesh Sharma's case (supra) and Gurdeep Kaur's case (supra) to the effect that gift articles given to the relatives of husband at the time of marriage do not constitute Istridhan.

The plea of learned counsel for the petitioner about the maintainability of the petitioner 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.

Thus, there is no legal impediment in exercising the powers under Section 482 Cr.P.C. considering the facts of the case where vague allegations have been made and it warrants interference of this Court for quashing all the proceedings against her with an object to meet the ends of justice and prevent the abuse of the process of the Court.

The anxiety on the part of the complainant can well be understood that she is not able to reach out and bring the main accused back to face trial but that would not be enough to allow the proceeding to go on against the petitioner.

Therefore, in view of the discussion made above, the instant petition is allowed and the impugned FIR and consequent proceedings thereto, qua petitioner are quashed.

March 27, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE