

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

CRM No. M-39149 of 2014

Date of decision:- May 15, 2015

Tarundeep Kapoor and another

.....Petitioners..

Vs.

State of U.T., Chandigarh and another

....Respondents..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Mohit Garg, Advocate,
for the petitioners.

Mr. A.S. Gill, Addl. P.P., U.T, Chandigarh,
for respondent No.1.

Mr. Ranjit S. Dhiman, Advocate,
for respondent No.2.

JASPAL SINGH, J.

The present petition has been preferred under Section 482 Cr.P.C. (for short, 'Cr.P.C.') by Tarundeep Kapoor and his wife Ms. Bhawana seeking quashing of FIR No. 43, dated February 11, 2014, under Sections 498-A and 406 IPC, registered at Police Station Sector 31, Chandigarh.

2. Shortly put, case of prosecution is that marriage between complainant-wife and elder brother of petitioner No.1 was solemnized on March 02, 2006 as per Hindu rites and rituals. After the marriage, complainant-wife lived with the elder brother of petitioner No. 1

happily for about 7½ years and there was no complaint of harassment or any demand of dowry. The allegations levelled in the complaint are vague and general. In fact, neither petitioners nor their family members ever treated the complainant with cruelty.

3. The contention of learned counsel for petitioners is that petitioners are brother-in-law (devar) and sister-in-law (devrani) of complainant-wife. They are separately residing and are maintaining separate kitchen and have no concern in the matrimonial relations of complainant and her husband. Simple allegation against petitioners is that the matter was also discussed with them by complainant but they ignored the same. Neither demand of dowry was ever raised by either of petitioners nor they caused any harassment on account of alleged insufficient dowry. In the instant case, complainant-wife has used the provisions contained in Sections 406 and 498-A IPC to terrorize the petitioners and their family members. Even, false allegations have been levelled against her father-in-law, Mr. P.D. Kapoor, which cannot be even imagined. The Hon'ble Apex Court in case **“Sushil Kumar Sharma v. Union of India”, AIR 2005, Supreme Court 3100** has conceptualized the misuse of provisions of Section 498-A and has expressed its opinion to such an extent that use of provisions of Section 498-A may amount to unleashing a new legal terrorism. The Hon'ble Apex Court in the above referred case observed as under:-

“ The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bona fide and have filed with

oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations."

4. It has further been contended by learned counsel for petitioners that instant case is classic example where complainant is grossly misusing the provisions of 498-A IPC to harass not only petitioners but their other family members, just to settle her personal grudges against her in-laws family. The complainant is also in habit of doing wrong things and her father-in-law used to refrain her, which resulted into registration of instant false case. While concluding his arguments, it has been contended by learned counsel for petitioners that no specific role has been attributed to the present petitioners. They neither demanded dowry at any point of time nor caused any

harassment to complainant. Moreover, they are residing separately for sufficient long time. Even, demand of dowry, if any, by the husband of complainant is not going to be beneficial to the petitioners. Since, contents of FIR, do not disclose any cognizable offence, same deserves to be quashed at least qua the present petitioners.

5. This Court has given a deep thought to the aforesaid submission made by learned counsel for the petitioners and has perused the records available.

6. It is well settled provisions of law that when an efficacious remedy is available to the petitioners, proceedings under Section 482 Cr.P.C. are not maintainable. During the course of arguments, learned counsel for the petitioners did not point out that petitioners have already moved an application under Section 239 Cr.P.C. dated January 23, 2015 seeking their discharge in the case, which is still pending disposal. So, in view of the pendency of said application, instant petition seeking quashing of FIR is not legally maintainable. There is also nothing on record to suggest that petitioners are residing separately or that they have nothing to do with the matrimonial dispute, if any, between complainant and her husband. The petitioners are devar and devarani of complainant and it appears that they are living jointly with their father Mr. P.D. Kapoor, as no documentary evidence has been placed on record showing that petitioners are living separately from complainant.

7. Taking into consideration the aforesaid discussion as well as the fact that other efficacious remedy is being availed by the

petitioners, instant petition is not maintainable. Accordingly, the same is dismissed.

**(JASPAL SINGH)
JUDGE**

May 15, 2015
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