

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-8235 of 2013 (O&M)
Date of Decision: September 29, 2015

Neeti Kaith

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Nitin Thatai, Advocate
for the petitioner.

Ms.Priyanka Sadar, Asstt. Advocate General, Punjab
for the respondent-State.

None for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.80 dated 26.11.2012 under Sections 406, 380, 506, 34 and 120-B IPC registered at Police Station Haibowal, District Ludhiana and all other consequential proceedings arising therefrom qua the petitioner.

It is stated in the petition that petitioners had two brothers i.e. Sanjay Kumar and Ajay Kumar. Younger brother Ajay Kumar got married with Aarti-respondent No.2-complainant on 13.07.2005. Both Ajay Kumar and his wife used to maltreat and harass the parents of the petitioner, therefore, just after 2-3 months of their marriage, they

were separated and had been living in Durgapuri, Haibowal Kalan, Ludhiana. It is further stated that brother of petitioner i.e. Ajay Kumar suffered a heart attack in April 2010 and ultimately, expired on 24.02.2011. After the death of Ajay Kumar, parents of the petitioner were left alone and complainant-respondent No.2, though living in the house of her parents, quite often visited her matrimonial home and asked her mother-in-law to vacate entire house for her and on her reluctance, she abused her. Due to this, mother of the petitioner got a public notice published in a newspaper to the effect that complainant-respondent No.2 i.e. Aarti was beyond her control and thus, she will not be amenable for her acts and deeds. Similar, notice was also got published qua other son namely Sanjay Kumar and his wife Madhu, who had been joining the complainant in humiliating the parents of petitioner. Therefore, all of them were disinherited by mother of the petitioner. It is also stated in the petition that father of the petitioner passed away on 25.11.2011. Mother of the petitioner filed a civil suit for declaration against complainant-respondent No.2 to the effect that she (mother of the petitioner) was the exclusive owner in possession of the residential house along with suit for permanent injunction and the interim injunction was granted and also to maintain status quo regarding the possession over the suit property. It is further stated in the petition that as a counter-blast to the suit filed by mother of the petitioner, complainant gave a false complaint to the police alleging that when she went to her in-law house, she was not allowed to enter into matrimonial home and was given beating by her mother-in-law,

jeth, jethani and entire conspiracy was done by the petitioner. It is also stated in the petition that petitioner has been married since 21.02.2002 and residing at Faridabad for the last 11 years, which is 347 kms. away from Ludhiana and there was no opportunity with her to harass and humiliate the complainant-respondent No.2 or even to plan any conspiracy against her. It is further stated in the petition that on the day of occurrence i.e. 20.11.2012, the petitioner consulted for her skin disease at Metro Heart Institute with Multi Speciality, at Faridabad, which is evident from OPD Card. The petitioner has two sons and both of them are studying at Aravali International School, Faridabad and they duly attended their school from 19 to 22.11.2012.

Notice of motion was issued and learned State counsel appeared and contested the petition. Earlier, learned counsel for respondent No.2 appeared but later on none appeared on behalf of respondent No.2. Today also, none appeared for respondent No.2.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that present petitioner is married sister-in-law of respondent No.2-complainant. It is not contested that petitioner was already married in the year 2002, much before the marriage of the complainant with her husband on 13.07.2005. The petitioner has been residing with her husband at Faridabad, which is far away from the matrimonial home of respondent No.2. The petitioner has two school going children and they were studying there. Husband of the complainant has already died much before the

registration of the FIR. The petitioner has placed on the record the document Annexure P-1 vide which the mother of the petitioner disinherited the complainant on 02.05.2011 i.e. much prior to the registration of the FIR dated 26.11.2012. Annexure P-2 is the copy of plaint of civil suit, which has been filed by mother of the petitioner on 20.11.2012 and the present FIR was got registered on 26.11.2012, after the filing of the civil suit. Even, the perusal of the FIR shows that no specific or particular instance has been given against the present petitioner. It is simply stated that petitioner along with other accused, did not allow the complainant to enter to her matrimonial home. The petitioner, who is married sister-in-law of the complainant and residing away from the matrimonial house of the complainant, is not supposed to stop the complainant from entering the matrimonial home. The other allegation is simply that all this has been done with the conspiracy of Neeti Kaith.

From the perusal of the FIR and from the documents on record, I find that the registration of the present FIR is nothing but abuse of process of the law. Now-a-days, it is a routine that all the family members of in-laws house are involved in the matrimonial disputes.

Learned counsel for the petitioner cited judgment passed by the Hon'ble Supreme Court in ***Ramesh and others vs. State of Tamil Nadu, 2005(2) RCR (Criminal) 68***, in which FIR was under Sections 498-A, 406 IPC and under Section 4 of the Dowry Prohibition Act against husband, his brother, sister and in-laws and sister lived at

a different place. The FIR against sister was quashed and it was held that there were bald allegations to rope in as many relations of husband. On the same point, learned counsel for the petitioner cited judgment passed by this Court in ***Tarsem Kaur and another vs. State of Haryana and another, 2013(7) RCR (Criminal) 1893***, in which FIR was against married sister-in-law and her husband and vague allegations were levelled in the complaint. The summoning order and consequent proceedings were quashed. Similarly, learned counsel for the petitioner cited judgment passed by this Court in ***Anguri Devi etc. vs. State of Punjab etc., 2011(2) RCR (Criminal) 431***.

Learned counsel for the petitioner also cited judgment passed by this Court in ***Rakesh Kumar and others vs. State of Punjab and others, 2009(2) RCR (Criminal) 565***, in which it is held that High Court can quash the proceedings even after framing of charge, where there is serious miscarriage of justice and abuse of process of the Court or when mandatory provisions of law are not complied with and when the High Court feels that the inherent jurisdiction is to be exercised to correct the mistake committed by the revisional Court.

I have gone through all the above-cited judgments and the same fully apply to the facts of the present case.

The mere fact that charges have been framed and case is fixed for prosecution evidence, only is no ground to dismiss the present petition.

In view of the above discussion, I find that registration of FIR against the present petitioner is nothing but abuse of process of the law and caused serious miscarriage of justice. Therefore, finding merit in the present petition, the same is allowed.

Resultantly, FIR No.80 dated 26.11.2012 under Sections 406, 380, 506, 34 and 120-B IPC registered at Police Station Haibowal, District Ludhiana and all other consequential proceedings arising therefrom qua the petitioner are hereby quashed.

September 29, 2015
Vgulati

(INDERJIT SINGH)
JUDGE