

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

CRM-M-7767 of 2015
Date of Decision: 11.03.2015

Rajni

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Sandeep Katoch , Advocate
for the petitioner.

SNEH PRASHAR J.(Oral)

1. This was a petition filed under Section 482 of the Cr.P.C. for quashing/setting aside the order dated 28.01.2015 passed by learned Sessions Judge accepting the revision petition filed by Komal and Suresh Kumar (respondents no.2 and 3) impugning the order dated 28.10.2014 vide which they were chargesheeted by learned trial Court.

2. Submissions made by Mr. Sandeep Katoch, Advocate representing the petitioner have been heard.

3. Petitioner filed a complaint before Superintendent of Police, Pathankot levelling allegation of harassment and maltreatment against her husband-Akashdeep and his family members including respondents No.2 and 3 Komal and Suresh Kumar. Respondent No.2 Komal is cousin sister of Akashdeep and was a mediator in the marriage of the petitioner with Akashdeep and respondent No.3 Suresh Kumar is the husband of Komal. Based on the complaint, a

formal First Information Report No.173 dated 03.12.2013 under Sections 498-A, 406 and 120-B of the Indian Penal Code was registered at Police Station Division No.2 Pathankot, District Gurdaspur. After investigation a final report was filed by the prosecution and the accused named in the first information report including respondents No.2 and 3 were challaned. Learned Sessions Judge noticed in the impugned order that as mentioned in the statement of the complainant-petitioner, which was made the basis for registration of first information report, Akashdeep was having illicit relations with one girl prior to marriage and the said fact was suppressed by him and his family members at the time of contracting marriage with her. Also after marriage her husband and other members of the family harassed and maltreated her for demand of dowry and also misappropriated her dowry articles which were entrusted to them.

4. Considering the facts and circumstances of the case the findings of learned Sessions Judge for discharging respondents No.2 and 3 were as under:

“After completion of investigation the police submitted final report also against the revisionists that they are conspirators for demand of dowry by the main accused and his family members as well as for misappropriation of dowry articles. However, there is not an iota of material collected by the police from which

such allegations of conspiracy of the revisionists with main accused Akashdeep and other members of his family can be said to have been cropped up.

After submissions of such police report the Trial Court has also framed charge under Section 406, 498-A read with Section 120-B IPC against both the revisionists ignoring that there is not an iota of material with the police report under Section 173 Cr.P.C from which it can be prima facie said that the revisionists have entered into a criminal conspiracy with main accused Akashdeep and other members of his family for harassing complainant Rajni for demands of dowry or for their having misappropriated the dowry articles. Neither there is any direct allegation of harassment of the complainant by the revisionists for demands of dowry nor of entrusting any part of Istridhan to them by the complainant or her parents. So keeping in view such circumstances the learned Trial Magistrate has erred in framing charge under Section 406, 498-A read with Section 120-B IPC against the revisionists because no such prima facie case is made out from the material

on record. Such illegal and perverse order of the Trial Magistrate is not sustainable and therefore is set aside. The revisionists are ordered to be discharged.”

5. Learned counsel for the petitioner could demonstrate no illegality or perversity in the order of learned Sessions Judge. Admittedly respondents No.2 Komal is married cousin sister of Akashdeep, husband of complainant Rajni and respondent No.3 is husband of Komal. They were the mediators during the marriage of complainant Rajni and Akashdeep. It is not the allegation of the complainant that respondents No.2 and 3 were residing with her in-laws family. She did not even mention the date on which they visited her matrimonial home after marriage. As such the allegation of the complainant that she was harassed by respondents No.2 and 3 for demand of dowry was simply vague and imaginative. Admittedly, no part of Istridhan was entrusted to them. Therefore, prima facie no case for chargesheeting respondents No.2 and 3 under Section 406 and 498-A read with Section 120-B of Indian Penal Code was made out against them. It is commonly seen that in criminal cases registered at the instance of wife arising out of matrimonial discord, the intention of the wife is to implicate almost all members of the family/relatives of the husband. Merely because respondent No.2 Komal was the mediator and respondent No.3 Suresh Kumar is her husband, they could not be wrapped for commission of offence under Section 406 and 498-A IPC with the help of Section 120-B on the allegation of

conspiracy .

6. Thus, finding no ground for intervention in the order dated 28.01.2015 passed by learned Sessions Judge, the petition is hereby dismissed.

March 11, 2015
rashmi

(SNEH PRASHAR)
JUDGE