

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

**CRM-M-11224-2013 (O&M)
Date of decision: 23.07.2016**

Shamla Devi and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raman Sharma, Advocate,
for the petitioners.

Mr. A.P.S. Gill, AAG, Punjab.

Mr. H.S. Thiara, Advocate,
for respondent No.2.

Ritu Bahri, J.

This petition under Section 482 Cr.P.C. is for quashing of FIR No.38 dated 11.04.2012, under Sections 406/498-A IPC, registered at Police Station, City Phagwara.

The aforesaid FIR has been registered on the basis of complaint made by Sumita Sharma-respondent No.2. Petitioner No.1 (aged about 72 years) is mother-in-law and petitioner No.2 is married sister-in-law (nanad) of the complainant and is living separately along with her husband, minor children and old parents-in-law in H.No.73, Sector 19-A, Chandigarh. The police had arrested both Anil Kumar (husband of the complainant) and Promila Sharma-petitioner No.2 on 12.04.2012. Thereafter, vide order dated 21.04.2012, they were released on bail. Petitioner No.1 was granted

anticipatory bail by this Court vide order dated 30.05.2012 passed in CRM-M-14415-2012 titled as 'Shamla Devi Vs. State of Punjab'.

Learned counsel for the petitioners has argued that after registration of FIR (Annexure P-1), investigation was carried out and as per challan dated 18.12.2012 (Annexure P-6), recovery of *istridhan* i.e. washing machine, sofa set etc. was effected. Those articles were taken in Truck bearing registration No. HP-14-5018 by the complainant with the help of Phagwara Police on 15.04.2012. Hence, the allegations of entrustment of dowry articles are not made out against the present petitioners. Another allegation against the petitioners was that on 21.04.2010, all the accused had tried to kill the complainant by burning her alive and the matter was reported to the police. Thereafter, on 11.06.2010, she gave Rs.50,000/- to all the accused persons to fulfill their greed by withdrawing Rs.48,000/- from HDFC bank. She had been turned out of her matrimonial house. The accused persons demanded Rs.50,000/- and a Maruti car from her parents. Learned counsel has referred to the information (Annexure P-3) received from the Municipal Corporation, Chandigarh (Fire & Emergency Services), as per which, on 21.04.2010, there was fire in the refrigerator (double door) of the complainant and the said fire was caused due to *jot*. He has further referred to the tickets (Annexure P-4, colly.) from Delhi to Bangkok on 12.06.2010, which were booked by the complainant. It has been argued that the complainant had withdrawn Rs.48,000/- on 11.06.2010 for purchasing the aforesaid tickets and thereafter, she had gone to Bangkok with her husband on 12.06.2010. As per allegations in the FIR, this money, in no manner, was given to the present petitioners. He has further argued that the allegation of demand of Maruti Car and Rs.50,000/- is general in nature.

Petitioner No.1 being 72 years old lady and petitioner No.2 having been residing separately on the second floor of the house in question, are not expected to get any benefit from Rs.50,000/- and the Maruti Car, as it would, at best, have been used by the complainant herself or her husband.

Mr. Thiara, learned counsel for the complainant has argued that it will be the trial Court, which will assess the evidence with regard to the incident of fire, demand of money and documents (Annexures P-3 & P-4) in due course. Since the complainant has been consistent in her allegations with regard to demand of money and Maruti Car, the FIR qua the present petitioners cannot be quashed at this stage.

Learned State counsel has stated that there is no dispute that the police of police Station Sector 19, Chandigarh was called and Fire Brigade had come to the house of the petitioners, which extinguished the fire. The fire had taken place due to *jot* in the temple made in the store of the house. It is denied that any complaint was made by the complainant to the police with regard to the incident of fire, which was caused to harm her.

After hearing learned counsel for the parties, this petition deserves to be allowed. In an affidavit filed by the complainant, she has reiterated that she was taunted by her in-laws for not bringing sufficient dowry in her marriage. It was also alleged that they had demanded Rs.5 lacs to purchase more dowry articles and Maruti car. She has stated that an attempt was made to kill her on 21.04.2010 and Rs.50,000/- had been withdrawn from HDFC bank to fulfill the greed of the petitioners.

From the facts and circumstances of the case, it transpires that the allegation of demand of Rs.50,000/- was made way back on 11.06.2010 and the present FIR (Annexure P-1) has been registered in the year 2012

after a gap of almost two years. Before this date, no complaint was made either with regard to the fire incident or demand of Rs.50,000/- by her in-laws. As far as the allegations of demand of Rs.5 lacs and Maruti car are concerned, they are general in nature and petitioner No.1 being a senior citizen of 72 years of age, is not expected to get any benefit from the said demand. Petitioner No.2, who is sister-in-law of the complainant, though staying on the second floor of the same house, but she is residing separately with her husband, three children and parents-in-law. It seems that an attempt is being made to rope in all the close relations of the husband in criminal proceedings, which are initiated under Sections 406 and 498-A IPC.

At this stage, reference can be made to a judgment passed by Hon'ble the Supreme Court in **Preeti Gupta & another Vs. State of Jharkhand & another**, 210 (7) SCC 667, wherein it has been held that large number of complaints under Section 498-A IPC are not *bonafide*. Majority of such complaints are filed either on the advice of members of Bar or with their concurrence with exaggerated versions. Similar view has been taken by this Court in **Rajni Vs. State of Haryana and another**, CRM-M-41402-2014 (decided on 29.02.2016), wherein it has been held that in a matrimonial dispute, there is a general tendency to implicate all the family members. Normally, unmarried sister-in-law has hardly any concern with the demand of dowry or harassment, but still she has been implicated.

In the facts of the present case, the complainant is not disputing the fact that as per information (Annexure P-3), Fire & Emergency Service, Chandigarh had sent Fire Brigade to the house of the complainant on 21.04.2010, which had extinguished the fire from the

refrigerator. Even the fact that she had gone to Bangkok with her husband is not disputed. Once, these facts have not been disputed by the complainant, necessary conclusion would be that the allegations of putting her on fire with an intention to kill her, are false. In these circumstances, the present criminal proceedings are liable to be quashed against the petitioners, who are none else, but mother-in-law and married sister-in-law of the complainant.

In view of the above discussion, FIR No.38 dated 11.04.2012, under Sections 406/498-A IPC, registered at Police Station, City Phagwara is quashed with all consequential proceedings arising therefrom qua the petitioners.

Petition stands allowed accordingly.

(RITU BAHRI)
JUDGE

23.07.2016
ajp

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No