

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

**Crl. Misc. No. M-11508 of 2013
Date of decision : 15.11.2016**

Pramod Johri & Anr.

..... Petitioners

versus

State of Haryana & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

Argued by: Mr. Kunal Dawar, Advocate
for the petitioners.

Mr. Sandeep Vashisht, DAG Haryana.

Mr. M.K. Verma, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

Petitioner No.1 Pramod Johri, the brother-in-law and his wife have filed the instant petition under Section 482 Cr.P.C. seeking quashing of FIR No. 146 dated 20.10.2012, registered by respondent No.2 under Sections 406 and 498-A IPC at Police Station Sector 56 Gurgaon and subsequent proceedings conducted therein.

The facts as they appear in the petition are noticed first. Respondent No.2 was married to Vinod Johri, brother of petitioner No.1 on 10.03.2012 at Lucknow. After about seven months of the marriage, she filed a complaint with the police against the husband,

parents-in-law, one another brother-in-law and the petitioners. The complaint is lengthy running into number of pages. The complainant had mentioned that her father had spent a hefty amount in the marriage and other ceremonies towards gifts, jewellery, clothes, food etc.. Her husband raised demands and asked her to take financial aid from her father for the expenses made on the honeymoon trip and for payment of installment of flat. On non-fulfillment of demand, he threatened to divorce her. He taunted that the gifts and other items given in the marriage were of inferior quality. The complainant also gave some details which are normal wear and tear of life when she was residing with her husband at Gurgaon. She referred to the aggressive nature of her husband and the misconduct done to her.

So far as the present petitioners are concerned, it was alleged that from 13.03.2012 to 18.03.2012 the father-in-law and petitioner No.1 repeatedly insisted her father to go to Gurgaon to ensure that the items desired by her husband were provided.

The next set of allegations against the petitioners found mentioned in para No.17 of the complaint are that both the petitioners along with their son had come to Gurgaon on 15.04.2012 for two days and had pointed about her behavior and taunts given regarding the utensils and electronic items given by her parents. They commented that they were not of good quality and also told her that she was now a member of a elite family and not gutter class. Petitioner No.2 is alleged to have pushed her saying that her parents

had not inculcated good values and she did not know how to run the house.

There are some allegations against the husband, the father-in-law and brother-in-law Subodh and it was averred that petitioner No.1 was posted at Suratgarh and in collusion with her husband had retained her jewellery given at the time of marriage. It was alleged that she had shifted to another house along with household articles, but most of the jewellery and other istridhan was retained by the accused.

On the basis of aforesaid complaint, FIR was registered and investigated. Investigations were completed and challan was submitted.

Quashing was sought, inter alia, on the ground that petitioners were married prior to the marriage of the complainant and they were residing at a far off place and could not interfere in the matrimonial life of couple and there were no specific allegations of entrustment or demand of dowry and whatever was said in the FIR against the petitioners was out of vengeance and malafide intention and to widen the net.

In the reply filed on behalf of State, it was submitted that during investigation, involvement of the petitioners was found and challan against them was filed and the case is fixed for charge and they can raise the pleas before the Court below. The husband of the complainant was arrested and dowry articles had been recovered

from him.

In the reply filed on behalf of complainant-respondent No.2, it was pleaded that there were specific allegations against the petitioners and it was at their instigation she was harassed and maltreated and the complainant has not touched the other family members. Petitioner No.1 has abandoned his first wife and the child.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for the petitioners had urged that petitioner No.1 had been posted and was residing at Air Force Station Suratgarh as Wing Commander since October, 2010 and petitioner No.2 is his wife. According to him, there are no specific demand of dowry against the petitioners and the allegations are vague and there is tendency to involve the members of in-laws family and they had been implicated just to settle scores. He had relied upon **Geeta Mehrotra & Anr. Vs. State of U.P. & Anr. 2012(4) RCR (Crl.) 812, Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 2010 (4) RCR(Crl.) 45, Ramesh & Ors. Vs. State of Tamil Nadu, 2005(2) RCR(Crl.) 68, Anguri Devi etc. Vs. State of Punjab etc. 2011(2) RCR(Crl.) 431, Divya @ Babli & Ors. Vs. State of Haryana & Anr., 2006(4) RCR(Crl.) 322** and a decision of this Court rendered in **Poonam Nagar Vs. State of Haryana & Anr. Crl. Misc. No.M-249 of 2014, decided on 05.10.015.**

Learned State counsel and learned counsel for the

complainant had opposed the prayer. They had pointed out that charges have been framed and there are specific allegations against the petitioners and it is for the trial Court to adjudicate and the petitioners can raise the pleas before the Court below at the stage of final arguments.

The question that arises is whether the FIR and the subsequent report under Section 173 Cr.P.C. and charges can be quashed in exercise of the powers under Section 482 Cr.P.C.

Petitioner No.1 is the brother-in-law while petitioner No.2 is his wife. In catena of judgments, the Courts have viewed the seriousness of the implication and over-implication of the relations of the husband by exaggerating the allegations in the cases of matrimonial discord. It is relevant to refer to some of them.

In the case of **Geeta Mehrotra & Anr. Vs. State of U.P. & Anr. 2012(4) RCR(Crl.)**, the Hon'ble Apex Court quashed the FIR against the sister and brother of the husband by observing as under:-

“...It is the well settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of the process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing specially

in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives or the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

In the case of **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)**, the Hon'ble Apex Court 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. had quashed the FIR and had observed that there was 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. The proceedings qua sisters were quashed as the allegations against the sisters were found to be vague and exaggerated and made to rope in each and every relation of the husband.

In **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR(Crl.) 527**, 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 & Anr. Vs. State of Jharkhand & Anr. 2010 AIR (SC) 3363** the Hon'ble Apex Court observed that a serious relook of the entire provisions of Section 498-A IPC was 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.

In the instant case, from a perusal of FIR, it is abundantly clear that there are no specific allegations against the petitioners. No

date or time was mentioned as to when she had been harassed or maltreated by the petitioner. No specific instance was given. There are general references that after the marriage, the petitioners passed comments about the quality of the household articles. Even if this allegation is accepted, then also the same does not fall within the ambit of cruelty for demand of dowry. They cannot be said to have any connection or relation with furniture or the household articles. There is not a whisper in the FIR that the petitioners were entrusted with any istridhan. The only allegation was that they in connivance with her husband had retained the jewellery of the complainant. It cannot be expected that the petitioners who were earlier married to the complainant and living at a different station would take the jewellery of the complainant. No complaint was made during the period interregnum. In the FIR it was mentioned that the complainant had shifted along with her husband to Gurgaon after marriage and after the discord, she had removed her household articles to the new house while the remaining articles were recovered from the husband. The allegations against the petitioners are vague, omnibus and general in nature and appear to have been made out of frustration just to widen the net. It cannot be forgotten that there is a tendency to rope in the relatives of the husband in matrimonial dispute. In the considered opinion of this Court, by mere conjectures and implications, the petitioners cannot be said to be involved for the offence of demand of dowry. The allegations in the FIR primarily

relate to the husband.

The plea of respondents that charge had been framed, 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.”

In the case of **Divya @ Babli & Ors. Vs. State of Haryana, 2006(4) RCR(Crl.) 322**, this Court quashed the proceedings qua the sisters by observing that there is a tendency for roping in all the relations in dowry cases. It was further held that there is no hard and fast rule that the proceedings cannot be

quashed after the filing of the challan or after framing of the charge.

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 or no offence is made out despite the allegations taken at their face value, the Court would be within its power to quash the complaint/ FIR.

In the considered opinion of this Court, the allegations made in the FIR are absurd and improbable and warrants interference to prevent the abuse of the process of the Court.

In view of the discussion made above, the instant petition is allowed. The impugned FIR and consequent proceedings taken therein, against the petitioners alone are quashed.

15.11.2016

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No