

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

**Crl. Misc. No. M-15400 of 2010
Date of decision : 15.12.2016**

Ranjit Singh & Ors.

..... Petitioners

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Argued by: Mr. Arihant Jain, Advocate
for the petitioners.

Mr. J.S. Bhullar, AAG Punjab.

Mr. M.S. Khaira, Senior Advocate with
Ms. Gagan Deep Grewal, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

Petitioners Ranjit Singh, Gurmeet Kaur, Sinder Kaur @
Surinder Kaur and Mukand Singh have filed the instant petition under
Section 482 Cr.P.C. seeking quashing of complaint titled as Hardeep
Kaur Vs. Avtar Singh and others, under Sections 406, 498-A and 506
read with Section 34 IPC, pending before SDJM, Jagraon and
consequent proceedings arising therefrom.

The facts as they appear in the petition are noticed first.
Respondent No.2 was married to Avtar Singh on 01.02.2003 and a
girl was born. Petitioners No.1 and 2 are the parents of Avtar Singh,
petitioner No.4 is his brother and petitioner No.3 is wife of petitioner

No.4.

A complaint was filed in the Court by respondent No.2 containing the allegations that sufficient dowry was given in the marriage and her istridhan consisting of gold and silver jewellery was handed over to the accused with the assurance to give the same to the complainant on reaching the matrimonial home. The accused were not happy with the dowry and they started harassing and maltreating her. The complainant was pressurized to bring more dowry from her parents. Constrained with the circumstances, her parents transferred half acre of land in the name of Avtar Singh, but that did not satisfy them. It was alleged that in the month of June, 2005 she was turned out of the house, but the matter was compromised with the intervention of Panchayat. But there was no change in the behaviour of the accused and in January, 2006 she was again turned out from the matrimonial home and the accused refused to rehabilitate the complainant till their demand of dowry was fulfilled. The accused also retained her istridhan and refused to return the same. The matter was reported to the police, but no action was taken. Consequently, the complaint was filed in the Court on 20.05.2006 against the petitioners and Avtar Singh.

In the preliminary evidence, the complainant examined five witnesses and on the basis thereof, the accused were summoned under Sections 406, 498-A and 506 read with Section 120-B IPC vide order dated 12.02.2007.

Quashing was sought, inter alia, on the ground that the matter was compromised between the complainant and Avtar Singh and now she was backing out from the compromise and that there was no specific role or allegations against the petitioners and they had been implicated due to vengeance and to widen the net and that petitioners No.3 and 4 had been residing separately and had no interference in the matrimonial life of the couple.

In the reply filed by respondent No.2 the factum of compromise was denied and it was claimed that her signatures were obtained before the police on stamp paper, which later were fabricated into a compromise and that the complainant signed the statement in the Court under misconception and she never agreed to withdraw the maintenance case or the complaint. It was averred that all the petitioners are residing jointly and specific attribution was made against them. After the alleged compromise, the complainant had filed an application for execution of order of maintenance in which Avtar Singh filed the objections and it were dismissed by the Court below on 17.07.2010 and all these facts were concealed by the petitioners and after lapse of more than a year of the alleged compromise, they had filed the instant petition. It was also pointed out that a petition was filed under Section 9 of Hindu Marriage Act by Avtar Singh and was pending. The compromise was not admitted and it was claimed that it was not acted upon.

The petitioners filed rejoinder and thereby averred that

under the compromise the complainant had received an amount of Rs.3,50,000/- towards maintenance besides the entire dowry articles and was backing out therefrom and after the compromise, the couple had started living together but again dispute arose between them.

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

Learned counsel for the petitioners had urged that a compromise had been effected on 27.02.2009, according to which the dowry articles and a sum of Rs.3,50,000/- was given/paid to her towards maintenance and it was mentioned in the compromise that the complainant will take back the cases and acting upon the compromise, Avtar Singh withdrew the revision preferred against the maintenance order and the statements of Avtar Singh and the complainant were recorded on 13.03.2009 but the complainant backed out from the compromise and continued with her petition as also the complaint, which was an abuse of the process of Court and should be quashed. He had placed on record a copy of judgment dated 25.05.2015 rendered in the suit filed by the complainant seeking past maintenance, Annexure P-1. Reliance was placed on **Mohd. Shamim Vs. Smt. Nahid Begum, 2005(1) RCR(Crl.) 697, Rajesh & Ors. Vs. State & Anr. 2008(3) JCC 1536, Ram Lal & Ors. Vs. State of Haryana & Anr. 2008(2) RCR(Crl.) 823 and Maninder Kaur Vs. Gurinder Singh Dhillon, 2008(2) RCR(Crl.) 314.**

It was further urged that there are no specific demand of dowry against the petitioners and the allegations were vague and there is a tendency to involve the members of in-laws family and they had been implicated just to settle scores.

Learned counsel had further urged that petitioners No.3 and 4 had nothing to do with the matrimonial life of the couple as they had been residing separately. He had referred to the ration card, Annexure P-7.

Learned counsel for the complainant had opposed the petition. It was reiterated that there was no compromise and there were specific allegations against the petitioners.

A copy of the Compromise had been placed on record and is Annexure P-1. There is a recital that there was a compromise in respect of the cases which are going against the husband and she had no grievance towards the family of Avtar Singh. It was also mentioned that the complainant had received a sum of Rs.3,50,000/- towards maintenance and the complainant was bound to withdraw the case of maintenance under this compromise and if it was not done, the complainant was bound to return the amount along with interest @ 1%.

The petitioners were not a party to the compromise. It was signed by Avtar Singh and the complainant. There was no specific reference to the cases which were to be withdrawn. There was no mention of the complaint. As per condition No.4 in case the

complainant failed to withdraw the maintenance case, she was bound to return the amount along with interest @ 1%. It was not the case of the petitioners that consequent thereto when she backed out of the compromise, Avtar Singh had instituted recovery proceedings against the complainant.

Before the revisional Court statement of Avtar Singh was recorded wherein he had stated that he was residing at the house of complainant and she has agreed to withdraw the cases filed by her and it was also stated that Avtar Singh will also withdraw the case under Section 9 of the Hindu Marriage Act as also the revision petition. Nothing was stated by the complainant, except that she admitted the statement of Avtar Singh as correct. In the reply the complainant had taken a specific stand that Avtar Singh had not withdrawn the petition filed under Section 9 of HMA case and in rejoinder, this fact was not disputed. After the statements, the complainant filed a petition seeking execution of the maintenance order and objections were filed by Avtar Singh, but the same were dismissed in default on 17.07.2010. It was restored on 13.11.2010 and contested. It appears that the compromise was not acted upon between the complainant and Avtar Singh and for this reason Avtar Singh had not approached any Court. The compromise was not effected before the Court. Its authenticity was challenged by the complainant and when it was not acted upon, the petitioners could not rely upon the compromise. They were not a party to the

compromise. The cases relied upon namely, Mohd. Shamim, Rajesh, Ram Lal and Maninder Kaur (supra) are of no help to them and the allegations against the petitioners are to be examined independently of the plea of compromise.

Petitioners No.1 and 2 are the parents of Avtar Singh. A perusal of the complaint would show that there are specific allegation that on the demand by petitioner No.1 jewellery and household articles were given to him and petitioner No.2 and it was handed with an understanding that the same belonged to her and would be given back on reaching the matrimonial house but the accused refused to return it. There are allegations that the complainant was harassed, maltreated and beaten for bringing more dowry. There is no averment in the petition that the couple was not residing with them. It cannot be said that there are no allegations against petitioners No.1 and 2, the argument is misconceived. The allegations in the complaint will be examined and evaluated by the trial Court on the basis of evidence led before it. Petitioners No.1 and 2 can raise the plea before the trial Court at the appropriate stage, which shall be considered by the Court without being influenced by any observations made by this Court. The petition qua petitioners No.1 and 2 is dismissed with aforesaid observations.

So far as case of petitioners No.3 and 4 are concerned, the same are on different footing. Petitioners No.3 and 4 were married prior to the complainant. They have claimed that they were

residing separately. This plea has been controverted by the complainant in the reply. Ration card, Annexure P-7 shows that they were residing separately. The names of petitioners and their children only are mentioned. Had they been living jointly, that would include all other members of the family. It cannot be expected that petitioners No.3 and 4 who were earlier married to the complainant and living separately would take the jewellery of the complainant. No complaint was made by the complainant against them. They cannot be termed as beneficiaries. There are no specific allegations against petitioners No.3 and 4. There is a general reference that petitioner No.4 passed comments that the complainant shall not be rehabilitated. The allegations against petitioners No.3 and 4 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, petitioners No.3 and 4 cannot be said to be involved.

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.

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 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.

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 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.

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 against petitioners No.3 and 4 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 partly allowed. The impugned complaint and consequent proceedings taken therein, against petitioners No.3 and 4 alone are quashed.

15.12.2016

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No