

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

**Crl. Misc. No. M-11812 of 2015
Date of decision : 29.11.2016**

Saroj & 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. Sanjay Verma, Advocate
for the petitioner.

Mr. Kuldeep Sharma, DAG Haryana.

Mr. Madan Sandhu, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

Petitioners Saroj and Saraswati are the married sisters-in-law of respondent No.2. They have filed the instant petition under Section 482 Cr.P.C. seeking quashing of FIR No. 571 dated 13.07.2014, registered under Sections 323, 406, 498-A, 506 read with Section 34 IPC at Police Station Sector-5 Gurgaon alongwith consequential proceedings.

The facts first. Respondent No.2 was married to Santosh Kumar, brother of the petitioners on 12.12.2008. A child was born to

the couple. The complainant got the FIR registered against the husband, parents-in-law and the present petitioners. The allegations were that her father had spent beyond his capacity and gifts in the shape of jewellery, cash and household articles were given, but the husband, parents-in-law and the sisters-in-law were not happy and she was given beatings. It was further alleged that demand of car and Rs.5 lacs was raised by the accused. On birth of the son, her father had given gifts to the accused. On 03.07.2012 she was turned out of the house after she was beaten. On 19.06.2013 a Panchayat was convened and she was sent back to her matrimonial home and a sum of Rs.70,000/- was given to all the accused. It was alleged that she was again maltreated and harassed by the accused and again she was turned out of the house along with the child on 12.05.2014 and she was asked not to enter the house until the demand of a car and Rs.5 lacs was not fulfilled.

On the basis of aforesaid complaint, FIR was registered and investigated.

Quashing was sought, inter alia, on the ground that petitioners were the sisters-in-law who were married much prior to the marriage of the complainant and that the allegations of demand of dowry were vague and omnibus and the petitioners were being prosecuted with a malafide intention.

In the reply filed on behalf of State, it was averred that the case was registered after enquiry and during investigation

involvement of both the accused was found and challan was filed and they can raise the pleas before the Court below.

In the reply filed on behalf of complainant-respondent No.2, it was pleaded that there were specific allegations against the petitioners that they instrumental in harassing and maltreating the complainant. It was admitted that both the petitioners were married, but claimed that they were residing in the same locality and used to visit their parental house daily.

Though, it was claimed that the petition is not maintainable as at that time investigation was going, but during the course of arguments, learned counsel for the complainant has pointed out that charge had been framed against the petitioners and therefore the petition was not maintainable.

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

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

The petitioners are the married sisters-in-law of the complainant. 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, except general allegation that the accused maltreated and harassed her. No specific incidents of cruelty were given. In the FIR, there is reference to the gifts given to the petitioners in the marriage, which cannot be termed as istridhan of the complainant. There was no allegation of misappropriation. In the complaint it was claimed that threat was extended by the accused and she was asked not to enter the house until the demand of a car and cash of Rs.5 lacs was not fulfilled. It was not specific that the same was extended by the petitioners. The petitioners were married prior to the complainant and are residing separately. It cannot be believed that they would be a beneficiary to the alleged demand of a car and cash and it cannot be expected that the petitioners were given Rs.70,000/- pursuant to a compromise effected with 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 plea of respondents about the non-maintainability of the petition after framing of charge 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 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, the Court would be within its power to quash the complaint/ FIR.

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

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

Whatever has been said hereinabove is without prejudice to the case against the rest of the accused

29.11.2016

Jiten
Whether speaking/ reasoned

Whether reportable

(ANITA CHAUDHRY)
JUDGE
Yes/ No

Yes/ No