

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-16520 of 2011

Date of decision : September 28, 2016

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Jai Kumar and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. V.K Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate for the petitioners.

Mr. D.K Singla, DAG, Haryana.

Mr. Pankaj Bali, Advocate for respondent no.2.

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RITU BAHRI, J.

Present petition has been filed for quashing of FIR No.333 dated 18.6.2010 registered under Sections 498-A, 406 IPC at Police Station Assandh, District Karnal and all consequential proceedings arising therefrom.

Briefly stated, the facts of the case are that the aforesaid FIR had been registered on a statement made by Om Parkash Sharma on the allegation that his daughter namely, Seema was married with Shiv Sahai son of Jai Kumar on 1.3.2008 at Assandh City Palace as per Hindu Rites and ceremonies and he had spent approximately Rs. 5 lacs in the wedding. After

some time of marriage, the accused started torturing and harassing his daughter for want of dowry. They used to pressurize her to get her share from her father's land and get the same transferred in the name of her husband. Her husband and mother in law also threatened to evict her from her matrimonial home in case she gave birth to a female child. Seema informed her father about the torture given to her by her in-laws on telephone. Her brothers along with some others respectables of the village went to the house of the accused and tried to pacify them. They requested them not to torture Seema. After some time, Seema again informed the complainant on telephone that there was no difference in her in-laws behaviour and that she should be taken back to her parental house. The complainant again went to the house of in-laws of her daughter along with some other relatives and took his daughter back to his house. Seema delivered a female child on 8.2.2010 at Satyam Hospital, Assandh. The complainant informed about this news to her in-laws but nobody turned up to see the newly born baby. Even in the Panchayat, no compromise could be effected and no one came to take Seema back to her matrimonial house.

This petition has been filed by the father-in-law Jai Kumar and mother-in-law, Om Pati. Counsel for the petitioner has argued that petitioner no.1, Jai Kumar is a retired teacher having five daughters who are highly educated. The allegations in the FIR are absolutely false. He had got admitted Seema in J.C College of Education, Assandh in B.Ed from Kurukshetra University, Kurukshetra. Seema appeared in M.A (Economics). Certificate by Kurukshetra University is also attached with the petition as Annexure P-1. Petitioners never interfered in her education rather they motivated Seema to continue her education. Father of Seema

was only a helper to Junior Engineer and retired from Panipat Thermal Power Plant. He had six daughters and one of them had committed suicide and a minor son. Except only one acre agricultural land, he had no source of income. Keeping in view such financial background, allegation of demand of Rs.50,000/- in cash and a car is highly exaggerated. After the registration of the FIR, the petitioners were arrested by the police on 29.7.2010 and were released on bail vide order dated 14.10.2010. On enquiry, Seema's sisters-in-law, Meenakshi and Anjali were found innocent. Petitioners had been charge sheeted under Section 406/498-A IPC by the Sub Divisions Judicial Magistrate, Assandh. During the pendency of this petition, the matter was referred to the Mediation and Conciliation Centre on 6.2.2105. As per the report of the Mediator, despite the best efforts, the parties could not reach any amicable settlement as per the order of this Court 5.5.2015.

Counsel for respondent no.2 has not been able to dispute the factual position and admitted that respondent no.2-complainant was having six daughters and a minor son.

In the facts of the present case, the question that arises for consideration is that whether the demand of a car and cash could be made by the present petitioners. The allegation in the FIR are that apart from the above said demand, the complainant was being persuaded to transfer some portion of the land in the name of the son of the petitioner. Keeping in view that the complainant had only one acre of agricultural land and five daughters and a minor son, this allegation is not probable. A reference at this stage can be made to a judgment passed by Hon'ble the Supreme Court in the case of **Preeti Gupta and another vs. State of Jharkhand and**

another, 2010 (7) SCC 667. The Supreme Court has been observing over a period of time that in the cases of matrimonial disputes, general allegations are levelled against majority of the family members with regard to dowry. Large number of complaints are not bona fide and are filed with oblique motive to extract money from the family members of the in-laws. The attempt is made to harass and humiliate the husband, relatives and in this background to permit the complainant to pursue the complaint would be an abuse of the process of law. High Court while exercising the inherent power under Section 482 Cr.P.C can quash a proceeding when it comes to the conclusion that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. In Paragraph 16, Hon'ble the Supreme Court has observed as under:

16. Reference to the following cases would reveal that the courts have consistently taken the view that they must use this extraordinary power to prevent injustice and secure the ends of justice. The English courts have also used inherent power to achieve the same objective. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. In *Connelly v. Director of Public Prosecutions* [1964] AC 1254, Lord Devlin stated that where particular criminal proceedings constitute an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in *Director of Public Prosecutions v. Humphrys* [1977] AC 1 stressed the importance of the inherent power when he observed that it is only if the prosecution amounts to

an abuse of the process of the court and is oppressive and vexatious that the judge has the power to intervene. He further mentioned that the court's power to prevent such abuse is of great constitutional importance and should be jealously preserved.

The allegations attributed to the petitioner that they had demanded Rs.50,000/- cash and car from the complainant who had five daughters and a minor son does not seem to be probable. Moreover the petitioners had encouraged their daughter-in-law Seema for securing higher education such as B.Ed as well as M.A (Economics). As per the allegations set up in the FIR, no case is made out against the present petitioners.

In view of all that has been discussed, writ petition is allowed and the FIR is quashed qua the petitioners.

September 28, 2016

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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No