

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-1344 of 2016

DATE OF DECISION: 09.02.2016

Daljeet Kaur

.....Petitioner

Versus

Harvinder Singh @ Bhola Thekedar and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes)**
2. **To be referred to reporters or not? (Yes)**
3. **Whether the judgment should be reported in the Digest? (Yes)**

Present:- Mr. Sarju Puri, Advocate
for the petitioner.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. for quashing/modification of order dated 11.6.2015 passed by Judicial Magistrate Ist Class, SBS Nagar, whereby, the respondents were not summoned in the complaint filed under Sections 406, 498-A IPC and also for quashing of impugned order dated 1.9.2015 passed by Sessions Judge, SBS Nagar, vide which, the revision petition filed by the petitioner against the aforesaid order was dismissed.

Briefly, the facts of the case as made out in the present petition are that the petitioner filed a criminal complaint under Sections 406, 498-A IPC against the respondents and co-accused-Jatinder Singh and Charanjit Kaur alleging therein that her daughter, namely, Harpreet Kaur was married

to Jatinder Singh on 9.1.2009 and a girl child was also born out of the said wedlock. Sufficient dowry was given to the respondents at the time of marriage but they were not happy with the same. The respondents used to harass the daughter of the complainant and demanded ₹ 20 lacs for compensating the deficiency in dowry. In preliminary evidence, the petitioner examined herself as CW-1, Inderjeet Singh as CW-2 and her daughter-Harpreet Kaur as CW-3. Accused-Jatinder Singh and Charanjit Kaur were summoned to face trial for offences punishable under Sections 406 and 498-A IPC vide order dated 11.6.2015 passed by Judicial Magistrate Ist Class, SBS Nagar but the complaint qua accused-respondents, namely, Harvinder Singh @ Bhola Thekedar, Anita Rani and Inderjeet Kaur was dismissed on the ground of vague allegations and insufficient material evidence.

Aggrieved by the aforesaid order passed by JMIC, SBS Nagar, the petitioner filed revision petition before Sessions Judge, SBS Nagar stating therein that specific allegations were levelled against them regarding demand of dowry, misappropriation of dowry articles as well as for maltreating to the daughter of the complainant but said revision petition was also dismissed vide order dated 1.9.2015.

Learned counsel for the petitioner contends that both the Courts below have not taken into consideration the statements of the complainant and other witnesses, wherein, specific roles were assigned to the respondents sought to be summoned. Specific overt acts of misappropriation of dowry articles and maltreatment were also attributed. Earlier a compromise was effected between the parties but thereafter complaints were made to the police and the same have not been taken into consideration. Learned counsel further contends that the impugned order to the extent of not-summoning the respondents is not legally sustainable

and is liable to be set aside. Learned counsel has also relied upon the judgment of Hon'ble the Apex Court in the case of **A.C. Narayanan Vs. State of Maharashtra and another** 2013 (4) RCR (Criminal) 306 and of this Court in the cases of **M/s. Ansal Properties and Infrastructure Ltd. and others Vs. Haryana State Pollution Control Board** 2012 (3) RCR (Criminal) 138, **Lajwanti @ Bimla Vs. State of Haryana and others** 2014 (1) RCR (Criminal) 929 and **Sanwar Mall Agarwalla Vs. M/s Grasim Industries Limited** 2015 (5) RCR (Criminal) 70 , in support of his contentions.

Heard the arguments advanced by learned counsel for the petitioner and have also gone through the impugned orders, complaint and statements of witnesses.

While passing the aforesaid impugned order, following findings have been recorded by JMIC, SBS Nagar:-

“However, as far as Harvinder Singh, Anita Rani and Inderjeet Kaur are concerned, only vague allegations have been made against them. How and when they were entrusted with dowry articles or whether they have any control of Istridhan of Harpreet Kaur is not explained anywhere. Further, it has been specifically mentioned by the complainant that Istridhan of Harpreet Kaur is under lock of accused Charanjit Kaur. Also there is no specific allegation as to when demand of Rs. 20 lacs was made by these persons. Though it has been only mentioned that these persons have asked Harpreet Kaur that it would be good for her if she fulfills demand of Rs. 20 lacs made by Jatinder Singh and Charanjit Kaur. This Court cannot loose sight of this fact also that in criminal cases involving matrimonial dispute there is tendency to rope in all the family

members. Prima facie there is sufficient material on record to summon accused Jatinder Singh and Charanjit Kaur to face trial under Section 406/498-A of IPC. However, at this stage prima facie there is no sufficient material on record to summon Harvinder Singh, Anita Rani and Inderjeet Kaur as an accused as only vague allegations have been made against these persons.

The revisional Court has affirmed the order passed by JMJC, SBS Nagar. The relevant portion of order passed by the revisional Court is also reproduced as under:-

“To be precise it is not even pleaded in the complaint as to whether any dowry article was entrusted to accused Harvinder Singh, Anita Rani and Inderjit Kaur. In the absence of any allegation of entrustment, much less specific entrustment, there cannot be any occasion for misappropriation of any such dowry article by them. Even otherwise also if at all any such entrustment may have been made at the time of marriage, solemnized on 9.1.2009, one would wonder as to whether said entrustment would have remain intact for so long a period. It is apparently a case of misunderstanding between the couple. Harvinder Singh, Anita Rani and Inderjit Kaur are relations of some distance of Jatinder Singh. Although in the complaint Daljit Kaur has, with astuteness in pleadings has described accused Jatinder Singh and Charanjit Kaur as residents of village Akalgarh (Nawan Pind), Phagwara, but as it has turned out, in unambiguous terms, both of them are residing in Italy. When the complainant has found it hard to make Jatinder Singh and Charanjit Kaur subject themselves to system of

administration of Criminal Justice in India, the complainant has gone for soft targets by impleading Harvinder Singh, Anita Rani and Inderjit Kaur as accused in this case so as to exert pressure upon Jatinder Singh and Charanjit Kaur.

Law governing the matter of issuing process against a person is well delineated. In **PNB Vs. Surinder Prasad Sinha** AIR 1992 SC 1815, it was held that Judicial Process should not be an instrument of oppression or needless harassment. The Court should be circumspect and judicious in exercising discretion and should take all the relevant facts and circumstances into account before issuing process lest it would be an instrument in the hands of a private complainant as vendetta to harass the person needlessly. In **Pepsi Foods Ltd. Vs. Special Judicial Magistrate** 1997 (4) RCR (Criminal) 761 (SC), it was laid down that summoning of an accused in a criminal case is a serious matter. Criminal Law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support the allegations in the complaint to have the criminal law set into motion. The summoning order of Magistrate should reflect application of his mind. Magistrate has to carefully scrutinize the evidence and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of allegations or otherwise and then examine if any offence was prima facie committed by the accused. Appraised on the touchstone of law, accusations levelled by the complainant and evidence led to substantiate those accusations are found to be woefully lacking in justifying

criminal prosecution of the respondents. Platform of a Court cannot be allowed to be misused for settling personal scores as the complainant intend to do so in this case. Consequently the impugned order is found well justified necessitating no interference there into from this Court while exercising revisional jurisdiction. The revision petition is thus held to be sans merits, altogether, and dismissed.”

On perusal of impugned orders passed by both the Courts below; and also the statements of the witnesses, it is clear that vague and general allegations have been levelled against the respondents sought to be summoned. Nowhere, it has been mentioned as to what articles were entrusted to whom. As per statement of the complainant, the istridhan of her daughter was kept under lock and key by accused-Charanjit Kaur but it has not been mentioned specifically as to when the demand of ₹ 20 lacs was made by these persons. A perusal of statements of complainant-Daljeet Kaur, her daughter-Harpeet Kaur and Inderjeet Singh clearly shows that sufficient grounds were there against accused-Jatinder Singh and Charanjit Kaur only, hence they were summoned to face trial for offence punishable under Sections 406,498-A IPC but no evidence was found in the investigation and allegations were found false qua remaining accused (respondents in the present petition). Therefore, they were not summoned. Accused-Harvinder Singh @ Bhola Thekedar is younger brother of father of Jatinder Singh and accused-Anita Rani is wife of Harvinder Singh. Accused-Inderjeet Kaur is wife of another uncle of Jatinder Singh. The marriage of daughter of the complainant, namely, Harpreet Kaur was solemnized more than six years back and during this period she used to visit Italy to join her husband. In absence of any specific allegation of entrustment or demand of dowry, the respondents were not summoned as

they have been implicated being relatives of main accused-Jatinder Singh. It has been held in various judgments of this Court as well of Hon'ble the Apex Court that there is a tendency to involve all the relatives of the husband when dispute is there between husband and wife.

Summoning of an accused in a criminal case is a very serious matter. Simply by alleging general allegations without any specific role and attribution and by calling certain witness is not sufficient. The evidence is to be scrutinized with application of mind by putting certain questions to the complainant to find out truth in the allegations.

In view of the facts as mentioned above, no interference is required in the impugned orders passed by both the Courts below. Accordingly, the present petition being devoid of any merit is hereby dismissed.

February 09, 2016
pooja

(DAYA CHAUDHARY)
JUDGE