

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

CRM-M-13373-2014 (O&M)

Date of Decision : 14.12.2016

Jai Singh & Anr.

.....Petitioners

Versus

State of Haryana & Ors.

.....respondents

Present : Mr. R.N. Lohan, Advocate,
for the petitioners.

Mr. Sanjay Saini, AAG, Haryana
for respondent Nos. 1 to 3.

Mr. Vivek Khatri, Advocate,
for respondent No.4.

JAISHREE THAKUR, J.

1. The instant petition under Section 482 Cr.P.C. has been filed seeking quashing of FIR No. 8 dated 28.01.2014 under Sections 498A, 323, 506, 34 of the Indian Penal Code (hereinafter referred to as “the IPC”), registered at Police Station Line Par, Bahadurgarh, District Jhajjar.

2. In brief, the facts of the case are that the complainant Poonam-respondent No. 4 herein solemnized marriage with Mohit son of the petitioners on 26.11.2013 against the wishes of the petitioners. Their marriage was a love marriage and an inter caste one. Son of the petitioners and respondent No.4 filed a complaint on 27.11.2013 before the Sub Divisional Magistrate, Bahadur seeking protection. A statement was recorded before the Sub Divisional Magistrate, Bahadurgarh wherein respondent No.4 get her statement recorded to the effect that she is a resident of Gali No.3 Line Par, Bahadurgarh and she married Mohit of her own free will in the Arya Samaj Mandir while further stating that the

mother and maternal uncle of Mohit were against their marriage. It was further stated that the marriage was without any dowry. After the statement was recorded, the Sub Divisional Magistrate, Bahadurgarh submitted his report stating that the son of the petitioners and the complainant wanted to reside together but separately from the family. Since the petitioners were not happy with the said marriage, they disowned their son by issuing a public notice in the local newspaper on 10.12.2013. The marriage between the son of the petitioners and the complainant did not survive on the grounds of demand of dowry and ill-treatment. Respondent No.4 filed a complaint before the Police Station on the basis of which FIR No. 8 dated 28.01.2014 was registered under Sections 498A, 323, 506, 34 IPC.

3. Mr. R.N. Lohan, learned counsel for the petitioners alleges that the allegations in the FIR are false and the same have been levelled only to harass and humiliate the petitioners. It is argued that the petitioners herein have nothing to do with the marriage of the complainant as the marriage of the complainant was a love marriage. The petitioners never lived with the complainant at any stage and even otherwise bare reading of the FIR would reveal that no case under Sections 498-A, 323, 506, 34 IPC is made out against the petitioners.

4. Per contra, learned counsel appearing on behalf of respondent No. 4 contended that there are specific allegations made out in the FIR against the petitioners who are the parents of the husband of the complainant. It is argued that there was specific demand for dowry in which she was asked to bring furniture, chain for mother-in-law, sister-in-law, clothes for the entire family. It is also argued that the complainant was subjected to beating at the hands of Mohit. It is submitted that the trial

Court is seized of the matter and since the charges have been framed this Court should not interfere under Section 482 Cr.P.C. at this stage.

5. Counsel for respondent No.4 relies upon a judgment rendered in ***Meenakshi Bala vs. Sudhir Kumar, 1994(3) R.C.R. (Criminal) 123***, wherein it was held that if the police is investigating and submitting the challan, it is upto the Magistrate to discharge the accused if the Magistrate found that the charges are groundless. In case, the Court takes cognizance and frames charges in terms of Section 240 Cr.P.C., proceedings should not be quashed under Section 482 Cr.P.C.

6. I have heard learned counsel for the parties and with their assistance have gone through the record of the case.

7. Admittedly, respondent No.4 and the son of the petitioners got married against the wishes of the petitioners. The allegation as made out in the FIR is that the complainant and her husband stayed a night at VC Hotel near Jakhoda Rohtak Road Bahadurgarh and thereafter they left for Dera Sacha Saudha at Sirsa. They stayed at Kashik hotel and due to a quarrel that erupted between them, they were thrown out of the hotel. On the way back to Bahadurgarh they were met by the petitioners at Rohtak from where they were taken to the house belonging to the in-laws. It was there that she was subjected to taunts and asked to bring furniture, jewellery etc. and if the demand was not complied with she would be thrown out of the house. Other allegations have also been raised against the husband Mohit.

8. In the instant case, the allegations as such seem to be general in nature as against the in-laws. No specific details seem to be forthcoming as to any specific time, date of demand. There are a catena of judgments, one such case being ***Preeti Gupta and another Vs. State of Jharkhand and***

another 2010 (4) RCR (Crl.) 45 where it has been held by the Apex Court that there is unfortunate tendency to rope in all family members in the matrimonial dispute. As has been noticed by the Apex Court that there is an increasing trend in roping in family members while lodging of a complaint after a matrimonial dispute has arisen, it seems to be so in the instant case as well. It is apparent that no dowry was given at the time of the marriage that took place. There are only general allegations as regards the demand of dowry which itself do not seem to be sustainable. As regards beating there does not seem to be any MLR done to substantiate the fact that she suffered any injury. The Court has also considered the fact that petitioner No.1 herein had disowned both his son Mohit and his wife by a public notice which was issued on 10.12.2013 much prior in time to the lodging of the complaint and registration of the FIR thereunder.

9. The argument raised that the Court should not interfere on account of the fact that charges have been framed would not be applicable in the instant case since it is noted that the allegations in complaint are general in nature. In a case **B.S. Joshi Versus State of Haryana reported as 2003 (2) RCR (Crl.) 888**, it was observed that the object of introducing Section 498-A in the Indian Penal Code was to prevent the torture of a woman at the hands of her husband or relatives. The Apex Court went on to hold that if the FIR, as it stands, does not disclose specific allegations against the accused, more so against the co-accused, specially in a matter arising out of the matrimonial bickering, it would be a clear abuse of process of law and judicial process to mechanically send the named accused in the FIR to undergo trial. It was further held that it is well settled principles laid down that in case an FIR does not disclose the commission of

offence, the Court would be justified in quashing the proceedings.

10. In ***Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandojirao Angre and Ors., 1988(1) R.C.R.565*** the Hon'ble Apex Court observed in para No. 7 as under:

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

11. In ***State of Haryana and Ors. v. Bhajan Lal and Ors. 1991(1) R.C.R.383*** the Apex Court in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure (for short, Cr.P.C.) under Chapter XIV and of the principles of law enunciated by the Supreme Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers

under Section 482 Cr.P.C., gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations made in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion

that there is sufficient ground for proceeding against the accused.

- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

12. Therefore, this Court is of the opinion that the proceedings under the FIR would tantamount an abuse of the process of law, thus, this petition is allowed and FIR No. 8 dated 28.01.2014 under Sections 498A, 323, 506, 34 IPC, registered at Police Station Line Par, Bahadurgarh, District Jhajjar and all subsequent proceedings arising out of the same are quashed.

14.12.2016
SP

(JAISHREE THAKUR)
JUDGE