

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Crl. Misc. No. M-16828 of 2014
Date of decision : 18.05.2016

Pallavi Goel & Anr.

..... Petitioners

versus

State of Haryana & Anr.

... Respondents

with

Crl. Misc. No. M-41103 of 2014

Rinku Garg & 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. Manoj Kumar Sood, Advocate
for the petitioners.**

Ms. Dimple Jain, AAG Haryana.

**Mr. Johan Kumar, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioners Pallavi Goel, Bijender Kumar Goel, Rinku Garg and Naveen Garg were challaned in FIR No. 989 dated 06.12.2013, registered under Sections 406, 498-A and 506 read with Section 34 IPC at Police Station Ballabgarh, District Faridabad.

These are two petitions in which the petitioners are seeking

quashing of the FIR as well as challan filed qua them.

Before proceeding further, the relationship between the parties should be noticed first.

Deepika Goel, the complainant was married to one Mohit Goel on 24.01.2011. Pallavi Goel is the cousin of Mohit Goel, petitioner Bijender Kumar Goel is her father, who happens to be the brother of father of Mohit Goel. Likewise, petitioners Rinku and Naveen Garg are sister and brother-in-law respectively of Mohit.

The FIR was lodged by Deepika Goel accusing her husband, parents-in-law and the present petitioners of harassment and maltreatment. It was alleged that around 25 lacs were spent in the marriage, besides cash of Rs.6 lacs was given for purchasing a car, but it was mis-utilized and car was taken in installments. After the marriage, all the accused started instigating her husband to pressurize her to bring Rs.10 lacs. They insulted her and forcibly took all her gold ornaments. She was given beatings. On 24.04.2012 she gave birth to a baby girl. The accused again raised the demand of Rs.10 lacs and on 20.12.2012 and 24.01.2013 her mother-in-law poured boiling milk and water on her. On 23.03.2013 the accused again pressurized her to bring to Rs.10 lacs and she was thrown out of the house at night after being beaten. A divorce petition was filed by her husband and she was taken back only when her father paid Rs.2 lacs and also handed over blank stamp papers signed by her father, mother and brother. The divorce petition was still not withdrawn. It was further alleged that on 29.08.2013 the accused locked her in room and tried to kill her. A panchayat was convened, but the accused raised the demand of dowry and turned her out of the house and retained her istridhan and gold ornaments.

The case was registered and investigated. Challan was filed

against the husband, parents-in-law and the present petitioners.

Quashing was sought by the petitioners, inter alia, on the ground that they had been residing separately from the couple and allegations against them were vague and omnibus and they were being prosecuted with a malafide intention just to wreak vengeance.

In the reply filed separately by the State in both the petitions, it was submitted that during investigation, involvement of the petitioners was found that they had committed acts of cruelty upon the complainant and had misappropriated the istridhan and criminally intimidated her and they were challaned and that they could raise all these pleas at the time of framing of charge and the petitions were liable to be dismissed.

The complainant filed reply in CrI. Misc. No.M-16828 of 2014 only, wherein it was averred that disputed questions of facts were involved, which could not be gone into by this Court in exercise of powers under Section 482 Cr.P.C. The allegations of the FIR were reiterated. It was averred that petitioner Pallavi Goel was residing at Gaziabad and she had misled the Court by mentioning her address as to Bangalore. With regard to petitioner Bijender Kumar, it was averred that he though was residing separately in a nearby house, but he used to interfere in her life.

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

The question that arises is whether the FIR can be quashed in exercise of the powers under Section 482 Cr.P.C.

As noticed above, petitioners are relatives of husband. 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(CrI.)**, 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.”

This Court in **Divya alias Babli and others v. State of Haryana and another, 2006 (4) RCR (Criminal) 322**, while relying on the judgment of the Apex Court rendered in the case of **Kans Raj v. State of Punjab and others, 2000(2) RCR (CrI.) 695** held as under:-

“22. Another judgement rendered in Shinder Pal @ Kakke's case^[1] (supra) relied by Mr. Saini, this Court while relying upon a judgement of Apex Court rendered in Kans Raj v. State of Punjab and others, AIR 2000 Supreme Court 2324 wherein their Lordships have

observed that a tendency has developed for roping in all the relations in dowry cases which ultimately weakens the case of the prosecution even against the real accused.

23. My view is also fortified by the latest judgment of Hon'ble Supreme Court rendered in Ramesh Kumar and others vs. State of Tamil Nadu, 2005 (2) R.C.R. (Criminal) 68 in which their Lordships while quashing the proceeding against sister-in-law who was staying at a different place observed that there were bald allegations to rope in as many relations of the husband .”

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.

Similarly, in the case of **Anguri Devi etc. v. State of Punjab etc. 2011(2) RCR (Criminal) 431**, this Court has quashed the FIR on the ground that a tendency has developed for roping in all the relatives in dowry cases in order to browbeat and pressurize the immediate family of the husband.

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.

The Apex Court in **Sushil Kumar Sharma vs. Union of India and others, 2005 (3) R.C.R.(Criminal) 745** where the question of striking down of Section 498-A IPC was raised, their Lordships observed that in such type of cases the “action” and not the “section” may be vulnerable and the Court by upholding the provisions of law may still set aside the action, order or decision and grant appropriate relief to the persons aggrieved. Their Lordships observed as under:-

“The object of the provision is prevention of the dowry menace. But as he has been rightly contended by the petitioner many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such

cases acquittal of the accused does not in all cases wipe out the ignominy (ignominy?) suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing framework. As noted above the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin's weapon. If cry of "wolf" is made too often as a prank, assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the Courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumptions are drawn which again are rebuttable. It is to be noted that the role of the investigating agencies and the Courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the Courts have to

act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

12. Lately, a tendency has developed for roping in all the relations in dowry cases in order to browbeat and pressurize the immediate family of the husband. Accordingly, sometimes inflated and exaggerated allegations are made. In the present case, the petitioners are the relatives who are admittedly residing separately. No specific allegation is alleged. The allegation, if at all, do not satisfy the definition of cruelty or misappropriation. No offence under Section 406 or 498-A is made out.”

In the instant case, from a perusal of FIR, it is abundantly clear that there was not even a single instance of harassment or cruelty or demand of dowry had been referred against the petitioners. Nothing specific was mentioned against the petitioners and it was generally said that the accused used to harass and maltreat her for bringing Rs.10 lacs and also instigated her husband. It is also not mentioned in the FIR as to what articles were handed over to the petitioners, which they had misappropriated. Again it was evasively mentioned that the accused forcibly took her gold ornaments. No MLR was placed on record and nothing has been shown that any complaint was made to the police earlier regarding the conduct of the petitioners. By merely mentioning that the misdemeanor of the husband and parents-in-law was at the instance and instigation of the petitioners, is not enough.

The whole genesis of allegations levelled in the FIR revolves around the demand of Rs.10 lacs. But it cannot be accepted that the petitioners would be beneficiaries to the alleged demand of Rs.10 lacs.

There is no serious dispute to the fact that petitioners Rinku, her husband Naveen and Bijender Goel are residing separately. They were married much prior to the marriage of the complainant. The police also has mentioned that the petitioner Rinku and Naveen are residents of Shahdra Delhi, while the complainant herself had admitted in the reply that Bijender Kumar Goel was residing in a separate house.

It was claimed by the complainant in the reply that Pallavi was residing at Gaziabad. Documents, Annexures P-3 i.e. appointment letter of Pallavi with Infosys issued on 10.02.2009 shows her posting at Mysore Branch. Annexure P-4 is her transfer order dated 14.12.2011. These documents show that she was working at Bangalore. For the sake of arguments, if it is taken that Pallavi was not working there, then also, she cannot be put to the ordeal of trial in absence of any specific allegation of cruelty or harassment for or in relation to demand or misappropriation of dowry against her. Pallavi is daughter of Bijender Kumar Goel, who admittedly is residing separately and it cannot be believed that she would be a beneficiary to the said demand of Rs.10 lacs.

Merely on the bald allegation of the complainant, the continuation of criminal proceedings against the petitioners would be a sheer abuse of process of law. The allegations against the petitioners are vague, omnibus and general in nature and made out of anxiety just to widen the net that too after the husband had filed a divorce petition against the complainant. 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.

The proceedings were apparently instituted with an ulterior motive just to wreak vengeance. The allegations made in the complaint are absurd and improbable and warrants interference with an object to meet the ends of justice and prevent the abuse of the process of the Court. This Court would be within its powers to quash the proceedings to secure the ends of justice. Reliance can be placed on **State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC).**

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

It is made clear that the Court has analyzed the material and allegations only to the extent of present petitioners and it cannot be construed to be an expression of opinion qua the other accused.

18.05.2016
Jiten

(ANITA CHAUDHRY)
JUDGE