

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

**Crl. Misc. No. M-23382 of 2015
Date of decision : 11.03.2016**

Rashmi Sharma

..... Petitioner

versus

State of Punjab & 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. Manish Dadwal, Advocate
for the petitioner.

Mr. K.S. Aulakh, AAG Punjab.

Mr. Jasbir Singh, Advocate
for respondent No.2.

ANITA CHAUDHRY, J.

Petitioner Rashmi Sharma is the unmarried sister-in-law of respondent No.2. She has filed the instant petition under Section 482 Cr.P.C. seeking quashing of FIR No. 160 dated 28.09.2012, initially registered under Sections 307 and 498-A IPC at Police Station Kurali, District S.A.S. Nagar. A challenge has been laid to final report filed under Section 173 Cr.P.C. and order dated 24.05.2014 passed by the trial Court framing charge against the petitioner.

The facts recapitulated from the petition are noticed first. Respondent No.2 was married to Vishal Sharma, brother of the petitioner on 21.11.2010. A child was born to the couple. On the night of 27.09.2012 a telephonic message was received by the police about the admission of Rajni Bala in General Hospital, Sector 16, Chandigarh. Her statement was recorded the next day i.e. 28.09.2012 wherein she prayed for taking legal action against mother-in-law Janak Rani and sister-in-law Rashmi Sharma. It was stated that after the marriage, the mother-in-law and sister-in-law started taunting her for bringing insufficient dowry and about inferior quality of the clothes and furniture. Her husband was abroad. There were constant quarrels between them. These are the allegations in the complaint, so far as petitioner is concerned. She had stated that on 26.09.2012 she was ill and her mother-in-law and grand-father-in-law brought medicine from the market. Her mother-in-law Janak Rani added some poisonous substance to the medicine and administered it to her, due to which she became unconscious.

Initially, the case was registered under Sections 307 and 498-A IPC, but after investigation Section 307 IPC was deleted and challan was filed against the petitioner and Janak Rani under Section 498-A IPC only, under which head they were charge-sheeted by the trial Court.

Quashing was sought, inter alia, on the ground that petitioner was the unmarried sister-in-law and allegations of demand

of dowry were vague and omnibus and the petitioner was being prosecuted with a malafide intention.

In the reply filed on behalf of State, it was admitted that offence under Section 307 IPC was deleted. It was averred that during investigation involvement of both the accused was found and challan was filed and they had been charged.

In the reply filed on behalf of complainant-respondent No.2, it was pleaded that there were specific allegations against the petitioner that she was instrumental in harassing and maltreating the complainant. The petitioner was charged and trial had commenced and some witnesses had been examined.

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 petitioner is the unmarried sister-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 petitioner. No date or time was mentioned as to when she had been harassed or maltreated by the petitioner. No specific instance was given. There are general references that after the marriage, the petitioner passed comments about the quality of the clothes and furniture and harassed her for bringing more dowry. The allegations against the petitioner 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 petitioner cannot be said to be involved for the offence of demand of dowry. The other allegation relating to incident of 26.09.2012 are not related to the petitioner and hence this Court refrains from commenting thereupon.

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 with an object to meet the ends of justice and prevent abuse of the process of the Court.

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

11.03.2016

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**(ANITA CHAUDHRY)
JUDGE**