

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

Crl. Misc.24752-2015 (O&M)

Date of Decision: December 14, 2016

Gurdarshan Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Pushpinder Kaur, Advocate
for the petitioners.
Mr. Mikhail Kad, AAG Punjab.
Mr. H.S. Gill, Advocate
for the complainant.

JAISHREE THAKUR, J.

This instant petition has been filed for quashing of FIR No.312 dated 27.07.2009, under Section 498-A of Indian Penal Code, registered at Police Station Mohali, District SAS Nagar and the impugned summoning order dated 06.05.2014 passed under Section 319 Cr.P.C. qua the petitioners.

In brief, the facts as alleged are that the petitioners are the father-in-law and mother-in-law of the complainant. The son of the petitioners, Manpreet Singh and complainant Sukhjit Kaur solemnized their marriage on 06.05.1998 and out of this wedlock, one female child namely Rabab Kaur was born. Various difference arose between the parties and ultimately in the year 2006, in an effort to save the marriage, son of the petitioners and the complainant shifted to Mohali and started residing there.

The complainant, ultimately, moved a complaint to the police against her

husband and other family members with regard to the harassment for demand of dowry and implicated the entire family of her husband. The complaint was thoroughly investigated by the police, who put up the challan against Manpreet Singh, husband of the complainant, under Section 498-A of Indian Penal Code and found that allegations for demand of dowry and cruelty qua the petitioners were false. The petitioners herein were found innocent and not challaned nor were they kept in column No.2 of the challan. The complainant died in November, 2012 and did not make any statement in the court of the Magistrate against her husband Manpreet Singh. However, the father of the complainant and her uncle appeared in court and in their statement implicated the petitioners and three sisters-in-law under Section 319 Cr.P.C. to face trial under Section 498-A of Indian Penal Code. The said impugned order was challenged by the petitioners and other relatives before the court of learned Additional Sessions Judge, Mohali, which was partly allowed qua the sisters-in-law, but the petition was dismissed qua the petitioners.

Aggrieved against the said order, the instant petition has been filed.

Ms. Pushpinder Kaur, Advocate appearing on behalf of the petitioners submits that the learned Magistrate has failed to take note of the fact that the complainant has never appeared in the witness box to depose her case, as she had since died in November, 2012, while also ignoring the fact that the complainant has shifted to Mohali in the year 2006 along with her husband Manpreet Singh and therefore, the question of the petitioners raising a demand of dowry or causing cruelty to her for want of more dowry, would not arise. It is argued that even in the complaint there are general

allegations that have been raised, which are totally unsubstantiated. It is also submitted that the provisions of Section 498-A of Indian Penal Code are being misused and there is a general tendency to involve as many as family members of the husband under Sections 406, 498-A of Indian Penal Code, as possible. Reliance has been placed upon a judgment rendered in the case of *Hardeep Singh vs. State of Punjab, (2014) 3 SCC 92* rendered by the Constitution Bench, to submit that the Courts have to be circumspect in summoning the persons as accused to face trial and the evidence prima facie should be of such nature, which if remains un rebutted, would lead to conviction of the person summoned.

Per contra, Mr. Mikhail Kad, learned AAG Punjab assisted by Mr. H.S. Gill, Advocate, appearing on behalf of the complainant, vehemently argues that deceased-Sukhjot Kaur suffered at the hands of the petitioners herein. She was continuously harassed for not bringing sufficient dowry and as such, they have been rightly summoned to face the trial.

I have learned counsel for the parties.

A reading of the FIR, which came to be registered under Section 498-A of the Indian Penal Code at Police Station Mohali on 04.05.2009 at the instance of Sukhjot Kaur (hence deceased) shows that Sukhjot Kaur, the complainant, was married to Manpreet Singh Lumba on 06.05.1998 and out of this wedlock, a daughter was born on 21.04.2000. She was subjected to beating at the hands of her husband Manpreet Singh, father-in-law and mother-in-law and was taunted for not bringing a car in the marriage. On 06.04.2006, she was beaten and pushed out of the matrimonial house, while keeping the young daughter. She went to her

parental home at Mohali. After some time, she went back to her matrimonial house at Faridkot. Again, she was subjected to beating and pushed out of the house on 24.08.2006, on which date, she filed a complaint in Police Station Faridkot. Through the efforts of the Panchayat, the matter was compromised on 24.08.2006 and it was decided that they would reside separately and a house was taken on rent in Mohali in September, 2006. It was further stated in the FIR that Manpreet Singh, her husband, did not reside with her and the entire household expenses were being made by her till date. It was also alleged that her *stridhan* and ornaments were still in possession of them.

PW2 Kartar Singh, father of the complainant and PW3 Mohan Singh, uncle of the complainant, in their evidence named the petitioners and other family members. All the family members were summoned in an application moved under Section 319 Cr.P.C., which order was challenged and the learned Sessions Court set aside the impugned order qua the other family members, while upholding the summoning order qua the petitioners herein. It was held that there is sufficient material on the record to the effect of commission of an offence under Section 498-A of Indian Penal Code. There were sufficient complaints on the record moved by deceased complainant-Sukhjit Kaur to the effect of harassment, as meted out to her, at the hands of the husband and his parents, the petitioners herein.

No doubt, it is true that the Court has to be extremely careful while summoning a person as an accused under Section 319 Cr.P.C. As noted by the Courts below, the complainant had moved many complaints to the Senior Superintendent of Police, SAS Nagar, Mohali and Incharge Women Cell, Mohali. In the first complaint moved, she has specifically

named her husband and her in-laws and then in the complaint moved before the Women Cell, there were allegations against husband, mother-in-law and father-in-law. While relying upon the ration of judgment rendered in the case of ***Hardeep Singh v. State of Punjab (supra)***, it can safely be said that there is no error or illegality in the summoning order. Two witnesses have deposed in the instant case supporting the version of the complainant and the learned Courts below after perusing the record came to the conclusion that the petitioners should be summoned to face trial.

The Additional session Judge , after appreciating the law as laid down in the case of **Krishnappa vs. State of Karnataka, 2004(4) RCR (Crl.) 678** and **Hardeep Singh (Supra)** , by taking due note of the fact that the Courts have to use their extraordinary powers under Section 319 Cr.P.C. in a sparing manner, came to the conclusion that there was enough material on the record to summon the parents of the husband of the complainant, while at the same time holding that sufficient material was not available for summoning the sisters-in-law. Therefore, this court is of the opinion that there is no infirmity or illegality in the orders passed, which have done so after thoughtful consideration.

In view of the above, this revision petition has no merits and the same is hereby dismissed.

December 14, 2016

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No