

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

**Crl. Misc. No.M-26926 of 2015 (O&M)
Date of decision : 06.12.2016**

Hemant Kumar @ Hanni

.....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Kuldip Sharma, DAG, Haryana.

Mr. Sanjay Mittal, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

This petition has been filed under Section 482 Cr.P.C. for quashing FIR No.807 dated 21.11.2014, registered under Sections 494, 497, 498, 379, 506 IPC at Police Station Hansi City, District Hissar.

It is necessary to refer to the allegations made in the FIR. The complainant is Navinder Munjal-respondent no.2. His wife Tamanna is the real sister of the petitioner. The allegations are that Tamanna lived with him only for six months and went back to her parental house without informing him and married Sunil Chugh without getting a divorce. The allegations are that he did not know of her marriage then and tried to bring Tamanna back but she lodged a FIR against him levelling several allegations. He learnt that Tamanna had married Sunil Chugh who was earlier married to Anuradha, a resident of Ganga Nagar and Anuradha had lodged an FIR

against Sunil Chugh regarding the marriage and the complaint was given to the Women Cell, Fatehabad, a copy was enclosed. It was pleaded that it had been conspired by the mother-in-law, father-in-law and brother-in-law. Tamanna got married without taking a divorce and she now had a child. Allegations were levelled that when Tamanna left the matrimonial home, she stole 10 tolas of gold and Rs.50,000/- cash with the help of her brother.

The State in its reply pleaded that challan had been filed under Section 494, 497, 498-A, 380, 506 IPC read with Section 34 IPC. It was pleaded that the sister of the petitioner was married to the complainant in 2011 and Tamanna had lodged a case at Fatehabad and she had also filed a complaint under the Domestic Violence Act. It was pleaded that respondent no.2 gave an application to the police to register the case against Tamanna and her relatives and on that complaint the present FIR was registered and during investigation, it was found that Tamanna had married Sunil Chugh without obtaining divorce from respondent no.2 and the allegations were that a theft had been committed and gold ornaments had been taken. It was pleaded that challan had been filed and charge had not been framed and respondent no.2 had filed an application for DNA test of the child. It was pleaded that during the Court hearings, the petitioner and his family entered into a scuffle with respondent no.2 and another case had been registered against the petitioner.

Respondent no.2 took the same stand as taken in the complaint and pleaded that Tamanna along with her brother had stolen the gold and Rs.50,000/- cash from his house. It was pleaded that he had moved an application for getting the DNA test to prove the paternity of his child but

his application was dismissed. It was pleaded that the petitioner had filed a false complaint against him on 08.04.2015, which on investigation was found to be false. It was pleaded that the petitioner attacked him before the Presiding Officer regarding which FIR no.228 had been registered on 17.03.2016 and the petitioner had colluded and hatched a conspiracy and had got Tamanna married to Sunil during the subsistence of the marriage.

The submissions on behalf of the petitioner are that the allegations that the gold and cash was stolen by the petitioner from his house were totally false and respondent no.2 and Tamanna were residing separately since July, 2007 and litigation was pending between them. It was pleaded that this plea was not taken in the petition filed under Section 9 of the Hindu Marriage Act. It was also pleaded that respondent no.2 had made a statement before the Protection Officer that he had himself given Rs.50,000/- to Tamanna for the marriage and therefore, the case could not have been registered under Section 379 IPC. It was urged that respondent no.2 had given a complaint and had levelled allegations that Tamanna had re-married but after conducting the investigation they could not find any proof and even otherwise it was not a cognizable offence and the proceedings were an abuse of the process of law and the FIR be quashed qua the petitioner. Reliance was placed upon ***Rajni Vs. State of Haryana and another in Crl. Misc. No.M-41402 of 2014, DOD 29.02.2016 (P&H), Lakhwinder Singh Vs. State of Punjab 2000(4) RCR (Crl.) 104, Suraj Rani Vs. State of Punjab and another 2011(5) RCR (Crl.) 539.***

On the other hand, the submission was that charge had been framed in May, 2016 and the Court has discharged the mother and the father

and it is for the trial Court to find whether there is truth in the allegations and there are specific allegations in the FIR and the trial has commenced and the witnesses are being recorded. It was urged that the petitioner had attacked respondent no.2 in the Court and another FIR has been registered and the case has been registered under Section 325 IPC. Respondent no.2 has placed on record the copy of both the FIRs as well as copy of the charge-sheet. The documents were taken on record.

Admittedly, challan has been presented and charge has been framed. The case is now fixed for recording the statement and one witness has already been examined. On perusal of the FIR it is clear that there are specific allegations against the petitioner. The correctness of the claim made by the petitioner cannot be decided in these proceedings. Whether respondent no.2 had made statements before the other Courts, will have to be proved at the trial. The allegations in the FIR cannot be said to be vague or general. They are specific to the petitioner. The case does not fall under the principles laid down in *State of Haryana and others Vs. Ch. Bhajan Lal and others 1992 AIR 604*. Therefore, the petition is dismissed.

Nothing contained herein would be an expression on merit, which would be determined on the basis of the evidence that would be led before the Court below.

06.12.2016

Sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No