

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

**Crl. Misc. No. M-28428 of 2014 (O&M)
Date of decision : 12.01.2016**

Sukhwinder Bains Kala & Anr.

..... Petitioners

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. Jitender Singh Dadwal, Advocate
for the petitioners.

Mr. V.P.S. Sidhu, AAG Punjab.

Mr. P.S. Punia, Advocate
for respondent No.2.

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No. 78 dated 11.03.2014, registered under Sections 323, 406, 498-A, 506 read with Section 120-B IPC at Police Station Basti Jodhewal, Ludhiana and the subsequent proceedings.

The facts, necessary for disposal of the instant petition are being noticed first.

Complainant-respondent No.2 Sunita was married to Ravi on 30.12.2009. The petitioners are the brother and mother

respectively of Ravi.

Respondent No.2 got the FIR registered against the petitioners and her husband on the allegations that her parents had given cash of Rs. 2,00,000/- and other dowry articles in her marriage, but her in-laws were not happy. Her mother-in-law went to America after 7-8 months of the marriage and her husband and his brother Sukhwinder Bains started maltreating her for more dowry. Her mother-in-law returned to India four months back and all the accused in connivance with each other started beating her for dowry. She went to her parental home on 28.02.2014 and her husband came there and demanded dowry. She was given beatings by her husband on 06.03.2014 and took her to matrimonial home, where three of them gave beatings to him and criminally intimidated her.

On these broad allegations, a case was registered and investigated. Challan has been filed in the Court for trial of the accused.

Notice of the petition was issued. Separate reply have been filed.

The State in its reply pleaded that specific allegations had been levelled by the complainant and the case was rightly registered against the petitioners and Ravi Kumar. During investigation, certain dowry articles were recovered from Ravi Kumar. It was averred that challan has been filed against the petitioners and the petition was liable to be dismissed.

In the reply filed by the complainant, it was additionally submitted that the case was fixed for charge and the petitioners could raise all the pleas before the trial Court. It was pleaded that there are specific allegations against the petitioners, who were instrumental in harassment of the complainant.

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

The Hon'ble Supreme Court in the case of **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)**, 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. quashed the FIR and observed that there is 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 and the proceedings qua sisters were quashed

as the allegations against the sisters were vague and exaggerated allegations had been 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 is 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 allegations of entrustment of dowry articles to the petitioners. It is only mentioned that a sum of Rs.2 lac was given by her father in cash besides other dowry articles. There is no whisper in the FIR that the amount or any part thereof or any other

dowry articles was handed over to the petitioners at the time of marriage. As per reply filed by the State, certain dowry articles had been recovered from the husband. A perusal of FIR reveals that the allegations against the petitioners are that they in connivance with husband gave beatings to the complainant for bringing more dowry and threatened her. There are no specific allegations regarding the demand raised by the accused, the period, the month etc. have not been pleaded nor the manner in which the threat was extended and by whom. The allegations are vague, omnibus and general in nature and appears to have been made out of the frustration and just to widen the net. Petitioner No.2 had gone to America just after 7-8 months of the marriage and had returned only four months prior to the FIR. It was alleged that she was given beatings by the accused, but there is no MLR. There is a general tendency to involve all members of the in-laws family in matrimonial disputes and Courts have to see whether the allegations are probable.

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 by this Court with an object to meet the ends of justice and prevent abuse of the process of the Court, in exercise of powers under Section 482 Cr.P.C.

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

12.01.2016

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**(ANITA CHAUDHRY)
JUDGE**