

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

**Crl. Misc. No. M-35816 of 2014
Date of decision : 30.03.2016**

Gunmala

..... Petitioner

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. J.S. Cooner, Advocate
for the petitioner.**

Ms. Vibha Dhiman, AAG Haryana.

**Mr. Abhilaksh Grover, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioner Gunmala is seeking quashing of FIR No. 355 dated 03.05.2014, registered under Sections 323, 406, 498-A and 506 IPC at Police Station Civil Lines, Karnal and subsequent proceedings.

Veenu was married to Amit Dua. The complainant Veenu had complained to the police that her husband Amit Dua was mentally harassing her and her family. He used to make abusive calls and used to send vulgar messages on the mobile and it was causing

disturbance to her. He was also criminally intimidating her. She was living with her father for the last four months. She feared that if something happened to her or her family, then Amit Dua was responsible. She also suspected Savitri and Mala's hand in this. She had complained that her husband was creating ruckus at her sister's house Meenu. Earlier an application was given to the police but her husband had tendered apology. She prayed for legal action.

The case was registered and investigated. Amit was arrested and challan was filed against him. Savitri Devi was found innocent. The petitioner was granted anticipatory bail.

Quashing was sought by the sister-in-law, inter alia, on the ground that petitioner was the unmarried sister-in-law and she had been residing separately from the couple at Chandigarh and allegations against her were vague and omnibus and she was being prosecuted with a malafide intention just to wreak vengeance.

In the reply submitted on behalf of State, an objection was taken about the maintainability of the petition on the ground that she did not join the investigation pursuant to the grant of anticipatory bail; supplementary challan against her was pending and the petition deserved dismissal. It was submitted that during investigation, involvement of the petitioner was found.

No reply was filed by the complainant.

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.

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.”

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 (Crl.) 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 not even a single instance of harassment or cruelty or demand of dowry had been referred against the petitioner. It is also not the case of the complainant that any dowry article was handed over to the petitioner. The whole genesis of allegations levelled in the FIR revolves around the husband and his conduct. The Voter identity card, Annexure P-3 issued in 2004 shows that the petitioner was residing at Chandigarh. It was submitted that she was doing a job here. By merely mentioning that the misdemeanor of the husband was at the instance and instigation of mother and sister, is not enough. The petitioner cannot be put to the ordeal of trial especially when there were no allegation of cruelty or harassment for or in relation to demand of dowry against her. Merely on the bald allegation and apprehension of the complainant, which otherwise was

found to be false so far as mother Savitri Devi is concerned, the continuation of criminal proceedings against the petitioner would be sheer abuse of process of law. The allegation against the petitioner is vague, omnibus and general in nature and made out of anxiety 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.

The objection of the State is untenable. The proceedings were apparently instituted with ulterior motive just to wreak vengeance. No useful purpose would served. It does not make any difference if the petitioner had joined the investigation, especially when the investigating agency had already made up its mind of submitting the challan against the petitioner. In this view of the matter, this Court would be within its powers to quash the proceedings even at threshold 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 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 the 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.

30.03.2016

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**(ANITA CHAUDHRY)
JUDGE**