

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-36671 of 2014 (O&M)
Date of Decision: 18.10.2016

Satya Devi and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Satyaveer Singh, Advocate
for the petitioners.

Mr. J.S.Bhullar, AAG, Punjab.

ANITA CHAUDHRY, J(ORAL)

The petitioners are seeking quashing of FIR No. 95 dated 30.9.2013 registered under Sections 498-A, 406 IPC, Police Station Women Cell, District Patiala (Annexure P-1).

Petitioner No. 1 is the mother-in-law, petitioner No. 2 is the brother of petitioner No. 1 while petitioner No. 3 is the sister-in-law of petitioner No. 1 who have been implicated in a complaint filed by respondent No. 2 under Section 498-A, 406 IPC. The son of petitioner No. 1 was married to respondent No. 2 in January 2009. He left for Muscat in April 2010 but returned to India some months later. An FIR was lodged by respondent No. 2 in September 2013 where she named her mother-in-law and her relatives besides her husband, of harassment and demand of dowry.

The complainant in her complaint dated 23.9.2013 had disclosed that her marriage with Dharampal was solemnized with the

marriage, they started demanding Rs. 2,00,000/- as they had to send Dharampal abroad. It was also alleged that whenever the complainant's mother came to meet her, the in-laws insulted her and sent her back and she was turned out of the house on 20.2.2010. The husband went abroad thereafter. The complainant also disclosed that the husband came to the house of her parents and felt sorry and disclosed that he had sent money which he had earned abroad to her uncle and aunt and his house had been registered in the name of Gurjinder Singh son of his uncle and that he would transfer that house in the complainant's name and on this assurance, the complainant did not initiate any proceedings against her husband and he took her to village Hallo Majra where they started living in a rented house.

The police investigated the case and filed the challan.

Meanwhile, Dharampal, husband of the complainant was missing from the house and a complaint was lodged by Satya Devi. Allegations were levelled that Dharampal had been kidnapped. The police later found that Dharampal had not been kidnapped and he had disappeared intentionally and was staying at a different places. He was arrested on 25.11.2014.

The parties were sent for mediation but mediation had failed. Respondent No. 2 has failed to file the reply despite last opportunity.

In the reply submitted by the State, it was submitted that the challan against the petitioners had been submitted and the son of petitioner No. 1 went missing as he was evading arrest and a false complaint was given and he was later on arrested.

Counsel for the petitioners contended that the mother-in-law and her brother and Bhabi have filed this petition who are in the age group

of 58-66 years and the son of petitioner No. 1 was missing and this FIR had been registered with a view to harass them. It was urged that the husband of petitioner No. 1 had died and she is a widow and she had disowned her son and the couple were living separately. It was urged that the FIR had been registered at Patiala where the brother of the complainant was residing and no cause of action arose at Patiala and the couple had resided together in Munga Khurd district Hoshiarpur and the parents of respondent No. 2 had taken her back and the mother-in-law was living with her brother Inder Singh in village Talla. She had lodged a complaint when theft was committed in her house on 6.7.2012 and she suspected the complainant and some other persons of theft and they had no role in the matrimonial life of the complainant. It was urged that even otherwise the Court had no territorial jurisdiction as no cause of action had accrued at Patiala and the entire family has been roped in, in order to pressurize them and the proceedings were an abuse of the process of law. Reliance was placed on ***Smt. Rani versus State of Haryana 2006(1) R.C.R. (Criminal) 985, Lakhwinder Singh versus State of Punjab 2000(4) R.C.R. (Criminal) 104, Raj Pal Singh versus State of Haryana 2000(3) R.C.R. (Criminal) 135, Bahadur Singh and others versus State of Punjab and another 2010(3) R.C.R. (Criminal) 252, Anguri Devi etc. versus State of Punjab etc. 2011(2) R.C.R. (Criminal) 431 and Sandeep Singh versus State of Punjab and another 2014(10) R.C.R. (Criminal) 2424.***

State counsel on the other hand while relying upon '***Sunita Kumari Kashyap versus State of Bihar and another 2011(3) R.C.R. (Criminal) 26'*** urged that it was a continuing offence and could be filed at the place where the complainant had shifted after she had moved out from

the matrimonial home.

The petitioners are the mother-in-law, her brother and his wife who have been challaned by the police in the FIR registered in district Patiala. The complainant was married in January 2009 to Dharampal. The in-laws were residing in Hoshiarpur. The father-in-law had died and the mother-in-law moved to her brother's house and started residing in village Talla in 2011. The FIR had been lodged in September 2013 at a place where the complainant's brother is posted. The parents of the complainant are otherwise residents of Gurdaspur.

The main plank of the argument is that no cause of action arose at Patiala and the FIR had been lodged at Patiala since the brother of the complainant was a Head Constable in the police department. It was urged that petitioner No. 1 had disinherited her son in January 2011 and she had not lived with the complainant and a story had been cooked up by the complainant and the main grievance was against the husband. It was urged that the son of petitioner No. 1 was missing and petitioner No. 1 had filed a complaint and thereafter this FIR was registered.

A perusal of the FIR shows that the complainant had given her address as Purowal Jattan which falls in district Gurdaspur. She had mentioned that she was presently staying with her brother in district Patiala for the last six months. The FIR had been registered under Section 406, 498-A 323, 452, 148, 149 IPC. The complainant had alleged that she was turned out of the house in February 2010 and she returned to her parents house and her husband without telling her went abroad but he returned after few months and the couple started living in Hallo Majra in Chandigarh in a rented accommodation. The complainant had made vague allegations that

there was a demand of Rs. 2,00,000/- and she was harassed and insulted and she was turned out of the house. The allegations are general in nature and the instant case is another example of abuse of process of law at the hands of the complainant. It is a matter of common knowledge that a tendency has developed in roping all the relatives of the in-laws in the matters of harassment on account of demand of dowry. The present case also pertains to the same category of case and the mother-in-law and her side of the family has been victimized at the hands of the complainant.

The view taken by this Court finds support from the judgment of the Hon'ble Supreme Court in ***Kans Raj versus State of Punjab and others, 2002 (20) RCR (Criminal) 695***. The relevant part of the judgment, reads as under:-

“A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”

In the given fact situation of the present case, in the opinion of this Court, it would be covered by more than one principles laid down by the Hon'ble Supreme Court, for quashing of the criminal prosecution, in its judgment reported as '***State of Haryana versus Bhajan Lal and others, AIR 1992 SC 604***'. The observations made by the Hon'ble Supreme Court laying

down the principles, read as under:-

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a

criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

The law laid down by the Hon'ble Supreme Court in *Bhajan Lal's* case (supra) has been followed consistently in later judgments, as well including ***Sundar Babu and others versus State of Tamil Nadu reported as 2009 (2) RCR (criminal) 606.***

Coming back to the facts of the present case, it is noted that petitioner No. 1 had disinherited her son much before the problem arose i.e. in 2011. Petitioner No.1 left her house and shifted to village Talla to live with her brother and Bhabi. In her absence, her house was broken in and all the articles were taken away and a complaint of theft was lodged by Satya Devi on 6.7.2012 almost an year before the present FIR was lodged. The complainant has levelled allegations against the family members of her husband, though, it appears to be because of temperamental differences with the husband. The complainant has tried to implicate the relatives and there remains no scope of any doubt that the allegations levelled against the petitioners are a result of the tendency noted above and have been attributed by the complainant who seems to be suffering from frustration in her matrimonial life.

Keeping in view the totality of the facts and circumstances noted above, this Court is of the considered view that the present petition deserves to be allowed. Consequently, the FIR and the subsequent proceedings arising thereof qua the petitioners are quashed.

Resultantly the petition is allowed.

**(ANITA CHAUDHRY)
JUDGE**

October 18, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No