

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

Crl. Misc. M 38488 of 2014 (O&M)
Date of decision: 25.10.2016.

Amandeep Kaur @ Palwi

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Gaurav Walsi, Advocate, for
Mr. Sanjeev Kumar, Advocate,
for the petitioner.

Mr. Mikail Kad, AAG, Punjab.

Mr. AS Virk, Advocate, for
Mr. PS Thiara, Advocate,
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

A prayer in the instant petition filed under Section 482 of the Code of Criminal Procedure is for quashing of FIR No. 153 dated 26.9.2014 under Sections 498-A, 406 and 120-B IPC registered at Police Station Harike, District Tarn Taran.

Learned counsel for the petitioner contends that the complainant solemnized marriage with one Gagandeep Singh on 18.3.2013 and out of this wedlock one daughter, namely, Ravneet Kaur was born on 29.11.2013. The complainant thereafter alleged harassment at the hands of her husband and in-laws who started raising demands for more dowry articles, including a big car and as the said demand was not fulfilled by the complainant and her family members, the complainant was turned out of the

matrimonial home and the baby girl born on 29.11.2013 was kept back by the in-laws. Learned counsel for the petitioner submits that the petitioner has been named in the FIR alleging that there was a relationship between the husband of the complainant and her. It is also submitted that a perusal of the FIR would not reflect any allegations as under Sections 498-A, 406 and 120-B IPC made out against the petitioner.

Per contra, learned counsel appearing on behalf of the complainant submits that a categoric statement had been made that Gagandeep Singh had stated to the complainant that he has solemnized his marriage with a girl named Amandeep Kaur, namely, the petitioner herein and, thus, no ground is made out for quashing of the said FIR.

I have heard learned counsel for the parties and have also perused the pleadings therein.

An FIR came to be registered at the behest of Harneet Kaur wife of Gagandeep Singh wherein it was stated that Gagandeep Singh son of Lakhwant Singh, mother-in-law Rajbir Kaur wife of Lakhwant Singh, sister-in-law (Nanad) Mandeep Kaur wife of Vikramjit Singh, brother-in-law (husband of the nand) Vikramjit Singh, uncle Avtar Singh son of Pal Singh, resident of Aima Kalan, aunt Simarjit Kaur wife of Harbhajan Singh, Amandeep Kaur @ Palwi and Upinder Singh son of Mohinder Singh raised demand of dowry and hurled abuses. In the said FIR, it was noted that certain gold ornaments were given to husband Gagandeep Singh, mother-in-law Rajbir Kaur, sister-in-law Mandeep Kaur, husband of nand Vikramjit Singh, uncle Avtar Singh, Babal son of the uncle as well as to aunt Simrajit Kaur. There is no allegations in the FIR that there was any entrustment of

any article to the petitioner here, even though she is named in the FIR. All the allegations regarding demand of dowry have been made against the family of the husband Gagandeep Singh. The only allegation in the said FIR is *“Her husband Gagandeep Singh said to her that he has solemnized his marriage with a girl namely Amandeep Kaur @ Palwi, who has shown her the photographs clicked in the mobile in February, 2014...”*

Sections 406 and 498A of the IPC reads as under:-

“406. Punishment for criminal breach of trust.—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means--

- (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]”

Section 406 IPC pertains to punishment for criminal breach of trust which is punishable either by imprisonment or by fine extended upto period of three years. Section 498A IPC pertains to punishment to husband

or relative of husband of a woman who has been subjected to cruelty with imprisonment for a term which may be extended to three years.

True it is that there is a growing tendency to rope 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, which is nothing but a sheer harassment. In the instant case, there is no allegation in the FIR itself regarding entrustment of any dowry article to the petitioner at the time of marriage to constitute an offence punishable under Section 406 IPC. In fact the petitioner is not even related to the husband of the complainant and, thus, offence under Section 498-A IPC is certainly not made out. The Hon'ble Supreme Court in **State of Madhya Pradesh Vs. Awadh Kishore Gupta and others, 2004 (1) RCR (Criminal) 233**, has laid down various parameters, on the basis of which the FIR can be ordered to be quashed in exercise of jurisdiction under Section 482 Cr.P.C. One of the grounds on which criminal proceedings and the FIR can be ordered to be quashed is where the allegations made do not reveal commission of any offence. The allegation, as noticed, would fall within the parameters of this clause as laid down by the Hon'ble Supreme Court.

In **Narinder Singh v. State of Punjab, (2014) 6 SCC 466** the Hon'ble Supreme Court while examining the power of the High Court to quash criminal proceedings under 482 of Cr P.C while exercising its inherent power laid down certain guidelines in para 30 (V) "*While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme*

injustice would be caused to him by not quashing the criminal cases.” The proceedings in the present case, if allowed to continue, would not lead to a conviction as the very ingredients of section 406 and 498A IPC are not made out and would lead to an abuse of the process of the Court.

In view of the fact that ingredients of Section 406 and 498-A IPC are not borne out, the FIR as registered against the petitioner is not sustainable. In view of the above, the present petition is allowed and FIR No. 153 dated 26.9.2014 under Sections 498-A, 406 and 120-B IPC registered at Police Station Harike, District Tarn Taran, qua the petitioner is quashed.

25.10.2016

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No