

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

Crl. Misc. No. M-40025 of 2014

Date of decision : 04.11.2016

Parveen Kumar and ors.

.....Petitioners

versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ranvir S. Chauhan, Advocate
for the petitioners

Mr. J.S. Riar, A.A.G. Punjab

Mr. Abhinav Goyal, Advocate
for respondent No. 2

RITU BAHRI, J.

Quashing of FIR No. 1 dated 02.08.2013 under Sections 406/498-A IPC, registered at Women Police Station S.A.S Nagar, District Mohali, is being sought by the petitioners in the present petition filed under Section 482 of the Code of Criminal Procedure.

Respondent No. 2 got married to brother of petitioner No. 1 and petitioner No. 3 namely Nishant Kedee on 23.09.2009 as per Hindu rites. Both petitioner No. 1, 3 and Nishant Kedee were living at different floors of the house being constructed by P.R. Kedee (father of petitioner No. 1, 3 and Nishant Kedee) by taking a loan. However, P.R. Kedee requested all the three sons to contribute in the loan installments but they chose to move out of the house in March, 2012 and thereafter, the above said house was being sold and P.R. Kedee along with his wife shifted to a rented accommodations. Thereafter, complainant in connivance of her father

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demanded share of her husband in the self acquired property of her father-in-law. But father-in-law of the complainant had disowned all the three sons along with their wives from their movable and immovable property.

In the present F.I.R, there are only general and vague allegations against the petitioners. No specific role or any kind of overact has been attributed to the petitioners. Further petitioner No. 1 and 2 both are physically handicapped with disability of 70% and 60% respectively. Both of them are living separately along with their kids since 2005. Similarly petitioner Nos. 3 and 4 are also married and living independently since 2007. They are also living separately since 01.04.2012 in Panchkula.

Further, the complainant in the F.I.R has clearly stated that her husband was a habitual drinker and used to quarrel with her and thus, she and her husband were disowned by father-in-law of the complainant. Thereafter, they started living in a rented accommodation and when he could not run the family, he came back to the house. Complainant was also given beating by her husband.

After going through the contents of the F.I.R and the petition, the specific allegations are against the husband and not the petitioners. There are only general allegations against the husband.

Learned State counsel on instruction has stated that the husband of the complainant expired on 11.08.2016.

This Court had made an attempt to secure the welfare of the minor child but the petitioners and father-in-law of the complainant (who was present in the Court) showed their inability to secure the interest of the child. Father-in-law of the complainant stated that he is a retired officer and had three sons and after his retirement, he settled in his house at 192, Mamta

Enclave, Dhakoli, District Mohali which he had raised after taking loan. There was no other property in his name and thus, he is unable to secure the interest of the minor child. He further informed that all the three sons were living separately in their separate house. This fact is further evident from the contents of the F.I.R whereby the complainant had stated that she was living with her husband separately but when her husband could not run the family, he came back to the house and the complainant returned back to her parental house. There are no allegations of harassment against the present petitioners. In the F.I.R, the complainant stated that her in-laws were asking for dowry in cash for house construction. Thus, the present petitioners could not be the beneficiary of the construction of the house and it would be got constructed for the welfare of the complainant and her husband.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of ***Preeti Gupta v. State of Jharkhand***, 2010 (7) SCC 667 whereby it has been observed that a general attempt is made by the complainant to rope the in-laws in criminal proceedings. This infact is a process to extract money on account of matrimonial dispute between the complainant and her husband. In para 30 to 35, it has been observed as under:-

30. It is a matter of common experience that most of these complaints under section 498A Indian Penal Code are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bonafide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. *The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.*

32. *Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.*

33. *The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection. Experience*

reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.

In the present case, after presentation of the challan on 31.03.2015, charges have been framed. But the allegations against the present petitioners are general in nature.

Applying the ratio of the above mentioned judgment, **FIR No. 1**

dated 02.08.2013 under Sections 406/498-A IPC, registered at Women Police Station S.A.S Nagar, District Mohali, is quashed along with all consequential proceedings arising therefrom qua petitioners.

The petition stands disposed of.

04.11.2016
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *No*