

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

**Criminal Misc. No. M-41402 of 2014
Date of decision: 29.02.2016**

Rajni

..Petitioner

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Ajay S. Ghanghas, Advocate
for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana
for respondent No.1 – State.

None for respondent No.2.

Daya Chaudhary, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.244 dated 18.08.2011 registered under Sections 498-A, 406, 506 read with Section 34 of Indian Penal Code (for short 'IPC') at Police Station Faridabad old, District Faridabad. Said FIR was registered on the basis of complaint made by complainant-respondent No.2 wherein certain allegations of demand of dowry and harassment were levelled against husband, mother-in-law, father-in-law and sister-in-law (the present petitioner).

Briefly the facts of the case are that the marriage of

respondent No.2 was solemnized with accused-Arun Kumar, who is brother of the petitioner, on 20.01.2010. No child was born out of said wedlock. Thereafter, certain differences arose between the parties due to which, the aforesaid FIR was registered.

Learned counsel for the petitioner submits that the petitioner is unmarried sister-in-law of the complainant and has falsely been implicated in the case whereas there is no specific allegation against her with regard to demand of dowry or harassment. After marriage of the complainant, she started residing with her husband at Faridabad. Due to the suspicion that her husband was having illicit relations with some other lady, all the family members have been implicated. Learned counsel further submits that the complainant had herself left the matrimonial home on 31.01.2010 along with all the ornaments, jewellery, clothes and cash. Thereafter, she called her husband at her parental house and took him to Pathology Lab where the medical test of her husband was conducted, wherein, he was declared impotent. Thereafter, he again got his medical test conducted from another Pathology Lab wherein he was found medically fit. Learned counsel also submits that the earlier report was fabricated by the complainant just to create an evidence. The petitioner being unmarried sister-in-law has no concern with the matrimonial dispute of complainant and her husband. Learned counsel also submits that even the parents-in-law of the complainant had executed an affidavit on 25.05.2011, which was also got

published in newspaper wherein it was specifically mentioned that both the complainant and her husband were quarreling with them and, therefore, they severed their relations. It was also stated therein that they also disinherited them from all their movable and immovable properties. Thereafter, the present FIR was got registered on 18.08.2011. Learned counsel also submits that subsequently, a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') for dissolution of marriage with mutual consent was filed as the matter was settled between the parties. A sum of ₹7,50,000/- as full and final settlement towards permanent alimony was to be paid towards past, present and future maintenance including *istridhan* but the complainant backed out from the compromise after receiving an amount of ₹3,75,000/- at the time of recording of first motion statement. Even the amount has not been returned. The present FIR is the counter blast of the same and has been registered just to put a pressure upon all the family members. The petitioner being unmarried sister-in-law has no role in any manner. Moreover, no specific allegation has been levelled against her with regard to demand of dowry or harassment.

Learned State counsel submits that the challan has been presented and even charges have also been framed under Sections 406, 498-A, 506 read with Section 34 IPC by the trial Court and now the case is fixed for recording of statements of the prosecution witnesses.

Heard arguments of learned counsel for the parties and have also perused the allegations levelled in the FIR and other documents available on the file.

Admittedly, the marriage of complainant-respondent No.2 was solemnized with accused-Arun Kumar (brother of the present petitioner) on 20.01.2010. Subsequently, some differences arose between the parties. Parents-in-law of the complainant executed an affidavit dated 25.05.2011 stating therein that their son-Arun Kumar and his wife-Ritu were quarreling with them so, they broke their social, moral and financial relationship with them. It was also mentioned in the affidavit that they have disinherited their son and daughter-in-law from all their movable and immovable properties. Said affidavit was also published in the newspaper. It is also not disputed that both the complainant and her husband filed a petition under Section 13-B of the Act for dissolution of marriage with mutual consent. A joint statement of the parties was recorded on 15.04.2014 and date was fixed after expiry of statutory period of six months for recording of their second motion statement. As per settlement arrived at between the complainant and her husband, an amount of ₹7,50,000/- was to be paid as full and final settlement and out of said settled amount, an amount of ₹3,75,000/- was paid on 15.04.2014 to the complainant at the time of recording of first motion statement in the petition filed under Section 13-B of the Act. Subsequently, the complainant refused and backed out from the compromise and second motion statement

was not recorded.

On perusal of allegations levelled in the FIR, it is apparent that only the name of the present petitioner has been mentioned but no specific role has been attributed to her. Even no specific incident of demand of dowry or harassment has been mentioned. Only on the basis of general allegations, the present petitioner has been implicated. The petitioner being unmarried sister-in-law has no concern with the matrimonial life of her brother and sister-in-law in any manner. It is also not disputed that an affidavit was also executed by the parents-in-law on 25.05.2011 whereas the present FIR was registered subsequently on 18.08.2011. Even the complainant has backed out from the compromise after receiving an amount of ₹3,75,000/-.

In a matrimonial dispute, there is general tendency to implicate all the family members. In the present case as well, husband, father-in-law, mother-in-law and sister-in-law (the present petitioner) have been implicated. Normally, unmarried sister-in-law has hardly any concern with the demand of dowry or harassment but still she has been implicated.

No doubt, the charges have been framed against the petitioner but this Court has inherent power to quash the proceedings even after framing of the charge when it appears to the Court that there is abuse of the process of the law and a false case has been registered.

The case of the petitioner is also squarely covered by ratio of law laid down by Hon'ble the Apex Court in case **State of Haryana vs. Ch. Bhajan Lal 1991(1) RCR (Criminal) 383**, wherein, the following principles were laid down for exercise of powers under Section 482 Cr.P.C to prevent the abuse of process of any Court or to secure the ends of justice :-

“1. 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.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.”

On perusal of FIR and other documents available on the file, it appears that no specific date or time has been mentioned regarding demand of dowry or harassment but still charges have been framed. Simply it has been mentioned that all the accused harassed the complainant for demand of dowry. Moreover, the complainant was earlier entered into a compromise with her husband and certain terms and conditions were settled. She also received an amount of ₹3,75,000/- out of total settled amount of ₹7,50,000/-. Thereafter, she backed out from the compromise and even the amount received by

her has not been returned. The present FIR is misuse of process of law as neither any specific role nor any specific incident has been mentioned.

The same issue was there before this Court in **Sukhdeep Kaur and another vs. State of Punjab and another, 2015(4) RCR (Criminal) 892** wherein considering that unmarried sister-in-law has falsely been roped, FIR was quashed qua her.

Reference may be made to judgment of this Court in the case of **Arshdeep Kaur v. Amninderpal Kaur 2013(7) RCR (Criminal) 1518**, wherein in more or less in similar circumstances, where the complainant had made allegations against unmarried sisters regarding demand of dowry and entrustment of articles, this Court while considering the facts that since no specific averments as to when the complainant was tortured by the petitioners, when the demand was raised, when any article was entrusted to them, when they caused injury to her. When there is no evidence with regard to the beatings given to her, has quashed the FIR. Para 8 of the said judgment reads as under:-

“8. I have considered the rival contentions of the parties and perused Annexures P-3 and P-4. Annexure P-3 is the first application given to SSP, Police District Khanna alleging that at the time of marriage, the parents of the complainant have spent more than their status and Motor cycle, colour TV, watch, refrigerator, furniture, gold ornaments etc. had been given. But in para

4 of the complaint to the SSP, Khanna, it is mentioned that earlier her husband was working at a medical shop and now he is doing nothing, rather, he has become a drug addict. Similar is the position with regard to the allegations in the complaint filed before the learned Magistrate. There are no specific averments as to when the complainant was tortured by petitioners no.1 and 2; when the demand was raised; when any articles were entrusted to them; when they caused injury to her. There is no medical evidence with regard to the beating etc. Rather, there is evidence on record to show that brother of petitioner No.1 was beaten up by brother of respondent No.1 and thereafter panchayati compromise was reached. Compromise has been annexed as Annexure P-2. In the face of this situation when there is no entrustment of any article nor there are specific allegations against the petitioners, the petitioners herein cannot be proceeded against. Petitioner No.1 is the unmarried sister-in-law who at the relevant point of time was pursuing M.Sc. Industrial Chemistry at GNDU, Amritsar and petitioner No.2 is the middleman who arranged marriage between the complainant and the brother of petitioner No.1. Even against petitioner No.2, no specific allegations are levelled. Only allegation against him is to the effect that he had informed the complainant that her parents had not given some dowry articles. Even no date is mentioned when these were uttered. In the face of this

situation, learned counsel for the complainant failed to rebut these facts and also failed to point out specific entrustment of particular articles.”

In view of the facts as mentioned above, the present petition is allowed and the impugned criminal proceedings arising out of FIR No.244 dated 18.08.2011 registered under Sections 498-A, 406, 506 read with Section 34 IPC at Police Station Faridabad old, District Faridabad as well as all subsequent proceedings arising therefrom qua petitioner, namely, Rajni, are hereby quashed.

29.02.2016
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(DAYA CHAUDHARY)
JUDGE