

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

Crl. Misc. M 5816 of 2015 (O&M)
Date of decision: December 7th, 2016

Jasmin Jyoti and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Naveen Bawa, Advocate,
for the petitioners.

Mr. Mikail Kad, AAG, Punjab.

Mr. Saurav Garg, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

The instant petition has been filed seeking for quashing of FIR 196 dated 21.6.2014 under Sections 498-A IPC registered at Police Station City Sangruar, District Sangrur.

In brief the facts are that petitioner No.1 and petitioner No.2 are the sister-in-law and mother-in-law respectively of the complainant. The complainant herein alleged that she was married to Bhupinder Singh on 12.1.2010 through Anand Karaj ceremony at Sangrur in which a sum of ₹2 lakhs was spent on her marriage. It was also alleged that at the time of marriage, certain domestic articles and gold ornaments were given in *milni* and they were given to the petitioners in entrustment as stridhan. It was further alleged that her husband Bhupinder Singh after consuming liquor in

excess would beat her at the instigation of her mother-in-law and sister-in-law. She was turned out of the matrimonial home when there was a demand from her to bring a sum of ₹50,000/- from her parents for purchase of a new three wheeler. It was also alleged therein that her husband was having live-in-relationship with some other woman. After lodging of the complaint, FIR was registered against the petitioners and Bhupinder Singh. Aggrieved against lodging of the said FIR, the instant petition has been filed.

Learned counsel appearing on behalf of the petitioners submits that the instant FIR has been filed only to harass the petitioners herein and a reading of the said FIR does not disclose commission of any offence as provided under Section 498A IPC. It was also argued that the petitioners herein are residing separately in House No. 764, LIG, Phase-1, Dugri, District Ludhiana ever since the year 2008 and in fact, on account of quarrelsome nature of Bhupinder Singh (son of petitioner No.2 and husband of the complainant), he had been disowned from moveable and immovable properties in the year 2009, much prior in time to the marriage taking place. The husband of the complainant had taken his share in the property. It was also argued that a notice in this respect had been published in the newspaper on 9th October, 2009 and the son of the petitioner no. 2 was residing separately at Village Rajowal, District Ludhiana. It was submitted that since bald allegations have been made in the FIR, the same is liable to be quashed.

Per contra, learned counsel the respondents submits that there are specific allegations in the FIR and a sum of ₹2 lakhs had been spent on the marriage and, therefore, this Court should not interfere in the

proceedings by quashing the FIR.

I have heard learned counsel for the parties and perused the record.

A bare perusal of the FIR reads that at the time of marriage of the complainant/respondent No.2, certain domestic articles and gold ornaments were given and the husband was given a ring and a gold set. It is further alleged that Bhupinder Singh, husband of the complainant, would consume liquor and thereafter would beat the complainant. Allegations have also been raised that the petitioners and Bhupinder Singh, husband of the complainant, were demanding a sum of ₹50,000/- for purchase of a new three wheeler. Apart from the aforesaid allegations, it was alleged that the husband of the complainant was having extra marital affairs with some other lady.

The complaint, as such, does not disclose as to when there was a demand of dowry. The complaint itself is vague without there being any specific allegations as to the time, date when there was a demand for dowry or the entrustment as such of the stridhan. The allegation of demand for a scooter would be of no benefit to the petitioners who were not residing in the same place as the husband of the complainant. FIR would show that only general allegations have been levelled, a reading of the same would indicate that grievance, if any, is against the husband consuming excess liquor, ill treatment meted out at his hands and his having extra marital affairs with some other woman. This Court cannot also lose sight of the fact that admittedly, the petitioners herein are residing separately from

Bhupinder Singh, who was disowned 9th October, 2009 much prior to the marriage taking place between the complainant and Bhupinder Singh. Otherwise also, it has been noticed by the Hon'ble Apex Court that there is unfortunate tendency to rope in all members of the family of the husband when a matrimonial dispute arises and the relationship has been soured between the parties.

In a case reported as **2003 (2) RCR (Crl.) 888 B.S. Joshi Versus State of Haryana**, it was observed that the object of introducing Section 498-A in the Indian Penal Code was to prevent the torture of a woman at the hands of her husband or relatives. The Hon'ble Apex Court went on to hold that if the FIR, as it stands, does not disclose specific allegations against the accused, more so against the co-accused, specially in a matter arising out of the matrimonial bickering, it would be a clear abuse of process of law and judicial process to mechanically send the named accused in the FIR to undergo trial. It was further held that it is well settled principles laid down that in case an FIR does not disclose the commission of offence, the Court would be justified in quashing the proceedings.

In **Madhu Limaye v. The State of Maharashtra [1977] 4 SCC 551** a three-Judge Bench of Hon'ble the Apex Court held as under:

"... In case the impugned order clearly brings out a situation which is an abuse of the process of the Court, or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. Such cases would necessarily be few

and far between. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally, vexatiously or as being without jurisdiction. The present case would undoubtedly fall for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, that the invoking of the revisional power of the High Court is impermissible.”

In Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors. 1988 (1) R.C.R. 565 the Hon'ble Apex Court observed in para No. 7 as under:

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

In State of Haryana and Ors. v. Bhajan Lal and Ors. 1991 (1) R.C.R.383

Hon'ble the Apex Court, in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure under Chapter XIV and of the principles of law enunciated by the Supreme Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 Cr.P.C., gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the Court or otherwise 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 made 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.

There are a catena of judgments, one such case being **Preeti Gupta and another Vs. State of Jharkhand and another 2010 (4) RCR (Crl.) 45** where it has been held by the Hon'ble Apex Court that there is unfortunate tendency to rope in all family members in the matrimonial dispute.

Even in the instant case herein, a bare reading of the FIR, as such, does not disclose commission of offence under Sections 498-A IPC, as there are no specific allegations of either demand or entrustment of dowry qua the petitioners. Therefore, in the facts and circumstances of the case, this Court is of the considered opinion that continuing of proceedings

against the petitioners in FIR would tantamount to be an abuse of process of court, particularly when the petitioners and the complainant never lived together and, therefore, it is a fit case warranting interference under Section 482 of the Code of Criminal Procedure.

Resultantly, this petition is allowed and the FIR 196 dated 21.6.2014 under Sections 498-A IPC registered at Police Station City Sangruar, District Sangrur. and all subsequent proceedings arising are quashed qua the petitioner.

December 7th, 2016
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No