

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

**Crl. Misc. No. M-8720 of 2015
Date of decision : 28.01.2016**

Chamel Singh & Anr.

..... Petitioners

versus

State of Haryana & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Argued by: Mr. Sandeep Verma, Advocate
for the petitioners.

Mr. Surender Singh, AAG Haryana.

Mr. Vishal Nehra, Advocate
for respondent No.2.

ANITA CHAUDHRY, J. (ORAL)

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No. 208 datd 19.06.2013, registered under Sections 323, 406, 498-A, 506 read with Section 34 IPC at Police Station Mahesh Nagar, Ambala by respondent No.2 and the subsequent proceedings.

The facts, necessary for disposal of the instant petition are being noticed first.

The petitioners are the in-laws of the complainant/respondent No.2 Manju Rani, who was married to their son Krishan Kumar on 10.10.2010. She had made a complaint to the

police against the petitioners, her husband Krishan, brother-in-law Darshan Singh, his wife Rubby and sister-in-law Seema. It was alleged that the complainant was working as a Constable in Haryana Police. After the marriage, she was harassed and beaten by the accused for bringing dowry. Earlier she had filed a complaint before the Women Cell, where her brother was beaten by her husband and father-in-law, but with the intervention of respectables the matter was compromised. She then joined her husband at Sirsa where he was posted as Assistant Manager in a bank. There also she was beaten by her husband on trivial issues and the accused interfered in their matrimonial life. The allegations were that and on the instigation of parents-in-law, brother-in-law, his wife and sister-in-law, Krishan Kumar used to give beatings to her and pressurized her to bring a car. On 03.06.2013 her husband had given beatings that she became unconscious. The police took her to Civil Hospital for treatment and booked her husband under Section 107/151 Cr.P.C. The complainant also apprehended danger to her life at the hands of her husband, father-in-law and brother-in-law.

After registration of the FIR, investigations were carried out. Krishan Kumar was arrested on 03.07.2013 and remanded to police custody. Complainant Manju Rani moved an application Annexure P-2 and informed the police that differences between her and her husband had been resolved with the intervention of relatives and with her free will she wanted to live with her husband and stated

that her dowry articles be not got recovered. Later, on 12.08.2013 she moved another application, Annexure P-3 before the police and stated that neither her husband nor his parents had come to take her back during this one month or talk on the issue and requested the police for arresting the accused and recovery of the dowry articles.

The investigating agency took up the matter again. Challan was filed against the husband and the petitioners. Darshan Singh, Rubby and Seema were found innocent. The petitioners have been charge-sheeted and trial has commenced.

Quashing has been sought on the ground that the petitioners were living separately at Kurukshetra away from the married couple and did not interfere in their life and no specific entrustment or demand had been assigned to them. The complainant was posted at Ambala as a Constable with Haryana Police and the husband was posted at Sirsa and they were residing at their respective place of posting and in no manner they could be beneficiaries of the alleged demand of car. It was pleaded that the FIR contained vague and general allegations and they had been roped in just to settle scores.

In the reply filed on behalf of the State, it was pleaded that specific allegations had been levelled by the complainant against the petitioners for demand of car, physical torture and harassment and during investigation dowry articles were recovered from their house. It was also averred that charge has been framed and trial

against the petitioner and Krishan Kumar had commenced.

The complainant opted not to file reply.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for petitioners had urged that the petitioners are the in-laws of the complainant, who are living separately and they had been roped in just to widen the net and the instant FIR is outcome of frustration of complainant who failed to maintain her matrimonial ties. According to him, no specific instance of harassment were given and general allegations have been made.

Learned State counsel assisted by learned counsel for the complainant had submitted that there were specific allegations against the petitioners of harassment and complaint of demand of dowry in the shape of a car. It was further submitted that charge against the petitioners has been framed and this petition was not maintainable.

The question that arises is whether the FIR and the subsequent report under Section 173 Cr.P.C. and subsequent charge sheet can be quashed in exercise of the powers under Section 482 Cr.P.C.

The Hon'ble Supreme Court in the case of **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)**, had observed that a tendency had developed for roping all the relations in dowry cases and if it was not discouraged, it was likely to affect the

case of the prosecution even against the real culprits.

In **Anita & Ors. Vs. State of Punjab, 2003(4) RCR (Criminal) 313**, when a first information report was lodged by the wife under Sections 498-A and 406 of the Indian Penal Code against the entire family members of the husband, this Court exercising its powers under Section 482 Cr.P.C. quashed the FIR and observed that there is a tendency to involve all the relatives of the husband when the relations between the husband and the wife become strained.

Similarly, in the case of **Harjinder Kaur & Ors. Vs. State of Punjab, 2004(4) RCR (Criminal) 332**, a criminal complaint was filed under Sections 498-A and 406 IPC against the husband, his parents and 5 sisters and the proceedings qua sisters were quashed as the allegations against the sisters were vague and exaggerated allegations had been made to rope in each and every relation of the husband.

In **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR(Crl.) 527**, the Hon'ble Apex Court observed that the fact that Section 498-A IPC is a cognizable and non-bailable offence had lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

In the case of **Preeti Gupta & Anr. Vs. State of**

Jharkhand & Anr. 2010 AIR (SC) 3363 the Hon'ble Apex Court observed that a serious relook of the entire provisions of Section 498-A IPC is warranted by the legislation. It was observed that exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a very large number of cases. In that case the Hon'ble Apex Court quashed the criminal proceedings against brother and sister of husband, living separately.

In the instant case, from a perusal of FIR, it is abundantly clear that there are no allegations of entrustment of dowry articles to the petitioners. Entrustment is *sine quo non* for proving the offence under Section 406 IPC. A perusal of the complaint submitted by the complainant, reveals that there is no whisper about the dowry being handed over to the petitioners, which they had misappropriated. The petitioners had taken a specific stand that they are living separately from the married couple. The State in its reply had not controverted this fact, rather it was claimed that it related to the complainant. The complainant had opted not to file reply to the petition. In other words, there is no specific denial to the fact that the petitioners were living separately or not. Only because certain household articles were recovered from the house of the petitioners that too at the instance of the complainant, it cannot be said that the same were entrusted and misappropriated by the petitioners. The complainant herself is a police official and the investigating agency was not even aware of the

fact that the petitioners were residing jointly or separately from the complainant, could very well manage recovery from them. The complainant is posted at Ambala as a Constable in the Haryana Police, while her husband was posted at Sirsa. The petitioners were residing in a village in District Kurukshetra. They are aged and it cannot be expected that the petitioners would be beneficiaries from the alleged demand of car. There are omnibus allegation against the petitioners that on their instigation, Krishan Kumar gave beatings to the complainant. It appears that this wild and general allegation had been made by the complainant out of frustration and to widen the net. No date or time was given by the complainant when her mother-in-law i.e. petitioner No.2 gave beatings to her at Sirsa. No MLR had been produced on record. The matter relating to beatings by petitioner No.1 and others to the brother of complainant was never reported to the police. No date or time of occurrence was mentioned. Even otherwise, it was claimed to have been resolved before the Panchayat. The petitioners are living separately from the couple and it cannot be said that they had interfered in the married life of couple who were residing at their respective place of posting. No instance of criminal intimidation by the petitioners was mentioned in the FIR. There is a general tendency to involve all members of the in-laws family in matrimonial disputes. After the registration of the FIR, the complainant herself had stopped the investigating agency to move forward on the premise that her misunderstandings have been

removed. It appears that thereafter differences cropped up again between the couple and she again asked the investigating agency to take action against the accused. Strangely, the investigating agency also acted at the behest of their employee.

The plea of respondents about the non-maintainability of the petition after framing of charge can very well be answered by referring to **Satish Mehra Vs. State of N.C.T. of Delhi & Anr. AIR 2013 SC 506**, wherein it has been observed thus:-

“15. The power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations made in the FIR or the criminal complaint, as may be, prima facie do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be exercised sparingly and only if the attending facts and circumstances satisfies the narrow test indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed. However, if so warranted, such power would be available for exercise not only at the threshold of a criminal proceeding but also at a relatively advanced stage thereof, namely, after framing of the charge against the accused. In fact the power to quash a proceeding after framing of charge would appear to be

somewhat wider as, at that stage, the materials revealed by the investigation carried out usually comes on record and such materials can be looked into, not for the purpose of determining the guilt or innocence of the accused but for the purpose of drawing satisfaction that such materials, even if accepted in its entirety, do not, in any manner, disclose the commission of the offence alleged against the accused.”

Furthermore, in the case of **State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC)**, the Hon'ble Supreme Court had observed that where the proceeding is instituted with an ulterior motive or where the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/ FIR

In the considered opinion of this Court, the continuance of prosecution against the petitioners would be sheer abuse of the process of law and it is liable to be quashed with an object to meet the ends of justice.

In view of the discussion made above, the instant petition is allowed. The impugned FIR and consequent proceedings taken therein, against the petitioners, are quashed.

28.01.2016

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**(ANITA CHAUDHRY)
JUDGE**