

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

Crl. Misc. No. M-8853 of 2015(O&M)

Date of decision : 22.08.2016

Gurmeet Ram @ Gurmeet Singh & Ors.

..... Petitioners

versus

State of Punjab & 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: Ms. Charu Verma, Advocate
for the petitioners.

Mr. K.S. Aulakh, AAG Punjab.

ANITA CHAUDHRY, J. (ORAL)

Petitioners Gurmeet Ram @ Gurmeet Singh, Harbans Kaur, Kulvinder Kaur and Jaswant Singh have filed this petition under Section 482 Cr.P.C. seeking quashing of FIR No. 10 dated 12.04.2013, registered under Sections 406 and 498-A IPC at Police Station NRI, District Hoshiarpur and the subsequent proceedings.

Learned counsel states that petitioner No.4 Jaswant Singh is a proclaimed offender and she does not press the instant petition qua him. Petition is dismissed qua petitioner No.4 being not pressed.

Learned counsel has pointed out that in the reply filed by the State, it was mentioned that petitioner No.3 Kulwinder Kaur was

found innocent during investigation and challan was not filed qua her. She wishes to withdraw the instant petition qua petitioner No.3 with liberty to approach again if any necessity arises. Petition qua petitioner No.3 is dismissed as withdrawn with liberty aforesaid.

Petitioners No.1 and 2 are the parents of Jaswant Singh, a resident of Italy, who was married to respondent No.2 on 18.12.2011. After few days of the marriage, Jaswant Singh went back. Respondent No.2 moved an application before the police dated 05.02.2013 wherein she alleged that after her husband went abroad, her father-in-law, mother-in-law and sister-in-law started harassing her. The Panchayat intervened and the accused refused to rehabilitate her and said that they would call for the divorce papers from their son. It was further alleged that Jaswant Singh used to insult her on telephone.

On these allegations, a case was registered and investigated. Petitioners No.1 and 2 have been put on trial and charge under Sections 406 and 498-A IPC was framed against them.

In the reply filed on behalf of the State, it was pleaded that during investigation, involvement of the petitioners No.1 and 2 was found qua the harassment of the complainant for dowry and misappropriation of her dowry articles and challan was submitted against them and they have been charge-sheeted by the trial Court.

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

The matter was sent for mediation, but it failed.

Learned counsel for petitioners No.1 and 2 had urged that in the FIR, there is no mention of harassment and maltreatment of the complainant on account of dowry. She had further urged that there was no mention of entrustment of any dowry articles to the petitioners No.1 and 2, rather the complainant had made number of improvement while stepping into the witness box. According to her, it was the respondent who had left the matrimonial house and obtained an ex-parte decree of divorce from the son of the the petitioner and has referred to the judgment dated 18.09.2014, Annexure P-2 She had further urged that the petitioners No.1 and 2 being the parents-in-law had been roped in this case to settle scores. According to her, no specific instance of harassment were given and general allegations have been made.

Learned State counsel had submitted that there are serious allegations against the petitioner of harassment and complaint of demand of dowry and misappropriation. It was further submitted that charge against petitioners No.1 and 2 had been framed and the petition is 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 petitioners No.1 and 2. It is only mentioned by the complainant that she was harassed soon after the marriage and her husband had left abroad. There is not even a whisper in the FIR that any dowry article was handed to petitioners No.1 and 2. In her statement, the complainant made improvements and levelled the allegations of harassment on account of dowry and giving of gold bracelet, rings and wrist watch to petitioner Gurmit Ram and golden ear rings to petitioner Harbans Kaur. It was not specifically mentioned that the same constitute stridhan of the complainant, rather those were customary gifts which do not fall within the definition of dowry. The house-hold articles had already been recovered and returned to the

complainant vide recovery memo Annexure P-4. In absence of any allegation of entrustment, charge against the petitioner under Section 406 IPC could not survive. Likewise, there is no specific instance of cruelty or harassment in connection with dowry. In her statement before the Court, Annexure P-3, the complainant tried to exaggerate the allegations by deposing that a demand of car was raised after the marriage. Petitioners No.1 and 2 are the aged parents of husband. They cannot be said to be beneficiary of the said demand of car. Her version that she was asked to bring a car and unless and until the demand is not fulfilled, she would not be permitted to enter the house, stands falsified from the fact that she herself had obtained ex-parte decree of divorce from her husband. A perusal of judgment of divorce reveals that therein also there was no specific allegation against petitioners No.1 and 2. The allegations revolve around the husband. There is general tendency to involve all members of the in-laws family in matrimonial disputes and Courts have to see whether the allegations are probable. The allegations against petitioners No.1 and 2, who are parents of husband are vague and general in nature and appear to have been made out of frustration.

The plea of respondents about the non-maintainability of the petition 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.”

Broad guidelines have been framed by Hon'ble Apex Court in the case of **State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC)**, wherein it was, inter alia, 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 allegations made in the complaint as well as deposition made before the Court by the witnesses are absurd and improbable and if the same are taken at its face value, then also no offence is made out against petitioners No.1 and 2 and it warrants interference by this Court in exercise of powers under Section 482 Cr.P.C.

In view of the discussion made above, the instant petition is allowed. The impugned FIR and consequent proceedings taken therein, against petitioners No.1 and 2, are quashed.

August 22,2016

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No