IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM.-M-9069-2014 (O&M)
Date of Decision:- 26.07.2016

R.S. Puri

....Petitioner

Versus

U.T., Chandigarh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Present: Mr. Kanwaljit Singh, Senior Advocate with Ms. Jaswinder Kaur, Advocate for the petitioner.

Mr. Sukant Gupta, APP for U.T., Chandigarh.

Ms. Akshita Chauhan, Advocate for Mr. Ashwani Prashar, Advocate for respondent No.2.

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RITU BAHRI, J.

Petitioner is seeking quashing of FIR No.150 dated 02.04.2013 (Annexure P-1) under Sections 406 and 498-A IPC, registered at Police Station Sector 39, Chandigarh along with all consequential proceedings arising thereto.

Petitioner is father-in-law of complainant-Rashmi Puri (respondent No.2) (hereinafter to be referred as 'the complainant').

The case of the complainant as set out in the FIR (Annexure P-1) is as under: -

"That marriage of the complainant was solemnised with Ashish Puri on 05.10.2008 as per Hindu Rites and ceremonies at Fort Resort, Dhakoli. Ring ceremony before the marriage was performed at a party hall hotel, Sector 35, Chandigarh on 4.10.2008. The applicant was a B.Pharma at the time of marriage and now she has a graduate diploma in pacakaging also. She was in the job before marriage. It was a arranged married through matrimonial website. Ashish Puri and his parents approached us first. Approximately Rs.20.00 lacs at that time has been spent on the marriage on demand of Sh. Ashish Puri and his parents. Younger brother of Ashish Puri was already married and as per their statement that marriage was not performed as per the family status of Ashish Puri so they wanted a marriage to be performed with great pump and show. (3) That as informed by Ashish Puri and his parents Ashish Puri was in good job in U.S.A. Their first meeting was held on 17.2.2008, when the families met in Cafe Coffee day, NAC Manimajra, Chandigarh. Ashish Puri went to U.S.A. on 10.3.2008. Rocka was done online and approximately Rs.50,000/- was spent. He came back to India Just 3-4 days before marriage. At the time of engagement all the golden jewelleries, clothes etc. and shagun were given. My parents as per the custom gave a double bed and my family also paid Rs.50,000/- for purchasing other sundry furniture/house hold articles. My mother-in-law made an issue as to if why bed has been given against their wishes. They wanted various other articles like washing machine, sewing machine etc. My father-in-law and mother-in-law were very greedy from the very first day of my marriage and even from the day talks been. They demanded some fixed deposits, document of immovable property in my name so that visa can be sought for sending me to USA, but their motive was to grab money/property from my parents. At the time of marriage, I wore rented lehanga for which also my mother-in-law scolded and tortured me. The house of my in laws is of three storeys. My father in law and mother in law never stayed together in one room. My father in law lived at the ground floor. Kitchen is situated on the first floor. Throughout the day I had to take tea, lunch dinner etc. to all the floors and then collected all utensils etc. from all the three floors. The family never agreed to sit at one place for dinning etc. with a sole aim of harassing me. Many times my in-laws will left the house without intimating me after locking ground and first floor. I had to go without food many times since the kitchen was also locked on the first floor. On seeing my life being ruined, my father was so mentally disturbed that his spinal cord developed swelling resulting in dy-function of multiple organs and paraplegia. He is now bed ridden and is suffering from bed sores and myltis. My husband promised that he will take me whenever he gets a job, but he has not taken me so far despite the facts he has got a good job now. My mother in law lived on the first floor and I lived on the second floor. My husband used to sleep in my mother in law's bed room. I got my visa on the same date on which my husband was to go to USA. After reaching USA, I found that my husband was out of job. The bosses of the company, where he was working earlier offered job to me but due to conservative nature of my husband, he did not permit me to join that job. My mother in law, while in India to talk with my husband, on internet for 10 to 12 hours daily. Thus, further not permitting me any time to have the company of my husband. She never wanted me to settle down. My in-laws trashed me as unlucky for their family and my mother-in-law use to get some witch craft performed on me through my husband by telling him the ways advised by some Pandits' Tantriks in India. After some time my mother-in-law also came to USA, there we have bedroom and a drawing room, have also. My mother-in-law used to sleep in our bedroom and never permitted me to sleep or live married life happily. On provocation of his mother if I objected to the witchcraft, Ashish Puri used to beat me and torture me physically and mentally. He abused me and even broke my teeth in a physical assault. They also threatened me with dire consequences, if I inform police or my parents. My mother-in-law also snatched my telephone, so that I could not talk to anybody. My times, my body had blue marks due to beating and physical assault by my husband, when I ever informed this to my in-laws. They used to say that I am insane and mentally disturbed and doing so of my own. (4) That ultimately Ashish Puri and I moved to India in October, 2009, since Ashish Puri wanted to install a industry in pharmaceutical or packaging since I am holding both degrees, but they were running short of money, so when my parents visited my in-laws house at one occasion, they stated that for installing the industry, they are having Rs.30 to 40 lacs and demanded Rs.50.00 lacs from my parents stating that the industry is to be established in my name so I should invest. When my parents stated their except one necklace and bangles, my in-laws kept all my jewellery, un-stitched clothes and all other household articles and my husband Ashish Puri on the behest of his parents dropped me at my parents home and never turned up to take me back. (5) That at one stage, when my mother and my younger brother along with one of my relatives Sh. Krishan Chand Sharma went to leave me at matrimonial home in Sector 37, Chandigarh my in-laws and my husband locked the house and called the police by alleging we have come to attack them. (6) My passport is with my husband and he is holding it with a motive to stall my life, so that I cannot go outside for any job. My husband did not allow me to work and never gave me a single penny, this tortured me financially also. He even blocked my telephone. They did not enter my name in their Ration Card and never made voter I-Card for me with a view to paralyze my life. (7) That the amount of Rs. 50.00 lacs was also demanded to house No.2839, Sector 37-C, Chandigarh, in the presence of Sh. Krishan Chand Sharma, Sh. Tek Chand Singla and my younger brother. (8) That the height of cruelty, torture physical and mental harassment can be perceived from the following: - (A) That my mother-in-law used to sleep in our bed room in between me and my husband. (B) She used to talk & chat on internet for 10 to 12 hours daily, thus giving me and no allowance to talk or meet my husband. (C) She used to get witchcraft performed on me through my husband by consulting various Pandits and Tantriks in this modern age. (D) My mother-in-law snatched my telephone, thus, paralyzing my life totally. (E) My husband on the behest of my mother-in-law physically assaulted me and broke my teeth, which is still under treatment. (9) That my father-in-law, who was seeing spectator and did not intervene when I was tortured and physically assaulted, thus, he is also an active party in the demand of Rs.50.00 lacs and physical and mental torture and cruelty meted out to me."

Learned counsel for the petitioner vehemently argued that there are no specific allegations against the petitioner in the FIR. He is 68 years of age and retired from M.E.S as Engineer and throughout has lived a disciplined life and has been falsely implicated in the present case. His son has filed a divorce petition dated 04.09.2012 (Annexure P-2) much prior to registration of the FIR (Annexure P-1) and the same was duly compromised, vide compromise (Annexure P-3), which was signed by both the parties. All the disputes between the parties had been resolved and they had agreed to file a joint petition for mutual consent (Annexure P-4) (colly.). The passport was given back to respondent No.2, vide receipt (Annexure P-6) and in the petition for divorce under Section 13, filed by son of the petitioner, she had taken a stand that she had cordial relations with her parents-in-law.

Upon notice, the stand taken by respondent No.2 in the written statement is that petitioner's son was granted interim bail, vide order dated 08.05.2013, passed by this Court in CRM-M-14509-2013 titled as Ashish Puri Vs. U.T. Chandigarh, to enable him join the investigation. The order was confirmed on 17.01.2014 (Annexure R-1) whereby a direction was given to the petitioner's son to deposit an amount of ₹7 lacs before the trial Court at Chandigarh in the shape of FDR in the name of the Court. A demand was made by the petitioner's family for setting up a pharmaceutical company in the name of the complainant. Moreover, during cross-examination in the divorce petition, the petitioner, who appeared as PW-2, had admitted that prior to the marriage of the respondent with his son, two *rokas* were broken. The petitioner despite in the service of MES has managed to accumulate huge property from a meager salary. When the complainant went to USA in the year 2008, son of the petitioner was out of job and doing petty job in USA. Hence, they returned back to India. Since, the complainant is qualified Pharmacist and has done B.Pharma, so, in the month of September, 2009, the petitioner took her to one M/s Unital Pharmaceuticals, Mubarkarpur, Derabassi along with his son to get the estimate for setting up a Pharmaceutical company to the In-charge, Women and Child Support Unit. Thereafter, an amount of ₹50 lacs was demanded by the petitioner and his family members for setting up a Pharmaceutical company. On account of non-fulfillment of the said demand, the petitioner's son has dropped her at her maternal home on 19.01.2010. The complainant had filed a complaint dated 01.06.2012 (Annexure R-2/3) against the petitioner and his family members to the SSP, Chandigarh and the same was under inquiry at Crime against Women and Child Support Unit, Sector 17, Chandigarh. Moreover, with regard to the compromise effected and joint petition under Section 13-B, it is stated that the same are undated, unattested and not witnessed by any witness and the complainant blindly signed the documents on the asking of the petitioner's son, so that, he should not get annoyed. The execution of the documents is admitted finally. After the marriage, some of the articles are still lying with the family of the petitioner and the necessary bills will be produced at the time of trial.

Vide CRM-26152-2015, the petitioner has placed on record the rejoinder to the reply filed by respondent No.2 along with Annexures P-10 to P-17. After granting anticipatory bail to the son of the petitioner by depositing ₹7 lacs in the form of FDR in the trial Court, the complainant has filed an application pointing that articles were valuing about ₹15 lacs but after hearing the arguments the said application was dismissed, vide order dated 18.02.2014 (Annexure P-10). The photocopies of the e-mail conversation and the bill of the double bed (Annexures P-11 to P-13) have been placed on record to show that the petitioner had cordial relations with the complainant. Petitioner has also placed on record photocopies of Visas (Annexures P-14 to P-16) granted to the petitioner's son and respondent No.2. It is further reiterating that the petitioner had never demanded any dowry and all this is an afterthought. The industrial plot was allotted to the petitioner in the year 1992 and the marriage was solemnized in the year 2008. The couple came back from USA in August, 2009 and the petitioner, who is a qualified Electrical & Mechanical Engineer, could have established a factory in the plot during this long time.

Further, learned counsel for the petitioner has referred to a judgment passed by a Co-ordinate Bench of this Court in **Rakesh Kumar and others** Vs. **State of Punjab and others**, **2009(2) R.C.R. (Criminal) 565** whereby it has been held that the Court cannot expected to be a mere silent spectator when it is made out that the criminal prosecution is an abuse of process of the Court. While exercising the jurisdiction under Section 482 Cr.PC., the criminal proceedings can be quashed to prevent the abuse of process or miscarriage of justice. In paragraph 10, the Bench has observed as under: -

> "10. In ***Lakhwinder Singh v. State of Punjab, 2000(4) RCR (Criminal) 104,*** it was held in para Nos. 12 and 19 as under :-
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> "12. The observations made above leave no manner of doubt that the wholesome jurisdiction conferred upon the High Court by Section 482 of Code of Criminal Procedure cannot be narrowed, confined or put in a strait-jacket. This inherent power can always be exercised by the High Court to prevent abuse of the process of Court or to otherwise to secure the ends of justice. The only constraint on the High Court is that since the power under this section is very wide, it should be exercised with great care and and caution. On the other hand, the court should not shy away from exercising this power when the accused persons are being persecuted in the guise of prosecution. Proceedings initiated and continued for oblique motives or to wreak vengeance on the other party are liable to be quashed. Proceedings are also liable to be quashed if even on the allegation being accepted in toto, *prima facie* no offence could be made out.
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> 19. It, thus, become fairly evident that the court have consistently put an end to criminal proceedings which are an abuse of the process of Court. At the initial stage, at the summoning stage and even after charges have been framed, the High Court has the inherent power to quash proceedings and to pass such orders as are necessary to prevent abuse of the process of any court or otherwise to secure ends of justice. Section 482 of the Code of Criminal Procedure contains a non-obstante clause to the effect that nothing in the Code of Criminal Procedure shall be deemed to limit the powers of

the High Court to prevent abuse of the process of Court. Therefore, filing of the charge-sheet in Court does not in any manner affect the amplitude of the wholesome jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure. The only rider being, that greater the power, greater the care and caution in exercise thereof".

The Supreme Court in **Kans Raj** Vs. **State of Punjab and others**, **2000(2) RCR (Criminal) 696 (SC)** has observed that a tendency has developed for roping in all the relations in dowry cases and if it is not discouraged, it is likely to affect the case of the prosecution even against the real culprits.

After hearing the learned counsel for the parties, going through the record, this Court is of the considered view that the complainant has admitted that decree of divorce by mutual consent has been awarded though it was stated that the signatures on the divorce petition were got signed by the son of the petitioner in a fraudulent manner. The decree of divorce has attained finality. The complainant after returning back from USA has got registered the present FIR i.e. after a gap of three years.

In this background, the allegations made against the present petitioner have to be seen. Perusal of the FIR shows that the allegations against the petitioner are general in nature. In paragraph 9 of the FIR, it is specifically stated that the petitioner was silent spectator to the harassment being caused to the complainant. As per contents of the FIR, a sum of ₹50,000/- was spent on *rokas* ceremony and the petitioner's son came back just 3-4 days before the marriage. There are general allegations that there was a demand of washing machine, sewing machine etc. It is further stated that the father-in-law lived at the ground floor, mother-in-law lived at first floor and she lived in 2nd floor. The complainant had gone to USA along with her husband and after seen that her husband did not have any job, her mother-in-law came to USA and interfered in her married life. On account of interference of her mother-in-law, her husband used to torture and beat her. She came to India in October, 2009 and demand of ₹50 lacs was made for setting up an industry in her name. All the jewellry articles kept by her in-laws. Finally, her father-in-law was silent spectator and did not intervene when she was tortured and physically assaulted. Further, in silence he actively participated in the demand of ₹50 lacs. The allegation that a sum of ₹50,000/- spent on *rokas* ceremony was not attributed to the petitioner. It was mother-in-law, who visited USA and stayed with the complainant and her husband, which caused disturbance into the married life. The demand of ₹50 lacs was made in the presence of Krishan Chand Sharma and Tek Chand Singla but this demand has not been attributed to the present petitioner. The above-said allegations are general in nature coupled with the fact that respondent No.2 has got divorce in a petition filed under Section 13-B of the Hindu Marriage Act where the compromise has been effected with Ashish Puri (son of the petitioner).

Keeping in view the above facts, the allegations are general in nature and the petitioner was silent spectator. Even the passport has been returned back to the complainant, vide receipt (Annexure P-6). The divorce petition has been filed on 04.09.2012 (Annexure P-2) much prior to filing of FIR (Annexure P-1). The joint petition for mutual consent bears the signatures of both the parties as is evident from petition (Annexure P-4) (colly). Once the divorce has been granted to the complainant by way of mutual consent and the allegations against the present petitioner are general in nature in the FIR, the criminal proceedings initiated against him are nothing but to the abuse of process of Court.

Hence, the present petition is allowed. The impugned FIR 150 dated 02.04.2013 (Annexure P-1), under Section 406 and 498-A IPC, registered at Police Station Sector 39, Chandigarh, qua petitioner is quashed along with all consequential proceedings.

July 26, 2016 (**RITU BAHRI**)
naresh.k JUDGE