

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

CRM-M No.13960 of 2016
Date of Decision: 23.01.2017

Jaituni and others

. . . Petitioners

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jamshed Ahmed, Advocate
for the petitioners.

Mr. D.R. Singla, DAG, Haryana.

Ritu Bahri, J. (Oral)

The petitioners seek quashing of the FIR No.366 dated 05.12.2015, under Sections 406, 498-A, 506, 34 of the IPC, registered at Police Station Hathin, District Palwal (Annexure P-1).

The FIR has been registered by Sahoda-respondent No.2 (complainant) with the allegations that her marriage was solemnized with the son of petitioner Nos.1 and 2, about 11 years ago, as per Mulim rites. Parents of respondent No.2 had spent considerable money on her marriage. On account of non-fulfillment of demand of Rs.1 lac and Alto car, the complainant was being harassed by the petitioners. Three children, born out of the wedlock are residing with the complainant. The

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allegation was that the petitioners in collusion with each other gave beatings to her. In this backdrop, FIR was registered.

On notice, Superintendent of Police, Hathin, in his reply, submits that after conducting the investigation, petitioner Nos.1 and 3 were found innocent and were kept in column No.2 of the challan report. Accused Bashir (petitioner No.2) was arrested on 23.05.2016, who had suffered confessional statement. On completion of the investigation, challan was presented in the Court. Proclamation proceedings against accused Liyakat (husband of complainant/respondent No.2) were initiated on 01.08.2016.

With regard to the allegations qua the present petitioners, perusal of FIR would show that there are allegations that accused had given beatings to the complainant. During investigation accused Jaituni (petitioner No.1), who is mother in law, and accused Yusuf (petitioner No.3) who is brother-in-law, have been kept in column No.2. Petitioner No.2 is father in law of the respondent No.2 (complainant). It is further alleged that in the month of October, 2014, accused No.2-Bashir (father-in-law) and accused No.3-Yusuf (brother-in-law) gave beatings to the complainant. Once they also tried to put the complainant on fire. In the month of November, 2014 accused gave beatings and accused No.3 caught hold the complainant from her hairs and snatched her gold and silver ornaments and turned her out from the matrimonial house.

Learned counsel for the petitioners also relies upon Annexure P-2 (Colly) and submits that they have disowned their son Liyakat (husband of respondent No.2/complainant). Respondent No.2 and her

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husband (Liyakat) are residing separately for the last more than 9 years. He further argued that the marriage of their son was solemnized about 11 years back.

Learned State counsel, on instructions, submits that son of the petitioner Nos.1 and 2, namely accused Liyakat has been declared proclaimed offender on 18.01.2017.

Heard learned counsel for the parties.

As per allegations set out in the FIR (Annexure P-1), in the month of October and November, 2014, petitioner Nos.1 and 3 (Jaituni and Yusuf), who are mother in-law and brother in-law, respectively, of respondent No.2, have been kept in Column No.2. Therefore, petition qua petitioner Nos.1 and 3, at this stage, rendered infructuous.

So far as role of petitioner No.2-Bashir is concerned, he has been attributed the same allegations as of accused Nos.1 and 3 with respect to the occurrence together took place in the month of October 2014. It is further alleged that accused Liyakat and Yusuf had left respondent No.2-Sahoda (complainant) at her parental village at Mathepur and threatened that she cannot come back without car and Rs.1 lacs, but there is no specific allegation with regard to demand of car and Rs.1 lacs.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of **Preeti Gupta v. State of Jharkhand, 2010 (7) SCC 667** whereby it has been observed that a general attempt is made by the complainant to rope the in-laws in criminal proceedings. This infact is a process to extract money on account of matrimonial dispute

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between the complainant and her husband. In para 30 to 35, it has been observed as under:-

30. *It is a matter of common experience that most of these complaints under section 498A Indian Penal Code are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bonafide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.*

31. *The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.*

32. *Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.*

33. *The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.*

34. *Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.*

35. *The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social*

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unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.

Similar view has been taken by this Court in **Rajni Vs. State of Haryana and another**, CRM-M-41402-2014 (decided on 29.02.2016), wherein it has been held that in a matrimonial dispute, there is a general tendency to implicate all the family members. In **Sukhdeep Kaur and another Vs. State of Punjab and another**, 2015 (4) RCR (Criminal) 892, this Court while quashing an FIR under Sections 406/498-A IPC, has observed that a tendency has developed for roping in all the relations of husband in dowry cases in order to browbeat and pressurize the immediate family of the husband.

In the facts of the present case also, Jaituni and Bashir-petitioner Nos.1 and 2 are mother in-law and father in-law of the complainant and Yusuf-petitioner No.3 is brother in law (devar) of the complainant. They all are relatives of husband of the complainant and residing separate from Liayakat, husband of the complainant, for the last nine (09) years and it would be abuse of process of law in the above facts

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that accused No.2 (Bashir) would face the criminal proceedings when accused Nos.1 and 3 (Jaituni and Yusuf, respectively) have been kept in Column No.2 of the challan report on the same allegations. It seems that an attempt is being made to rope in all the close relations of the husband in criminal proceedings, which are initiated under Sections 406 and 498-A IPC. They are not expected to get any benefit from the said demand of dowry. In these circumstances, the present criminal proceedings are liable to be quashed against the petitioners, who are none else, but relatives of husband of the complainant.

In view of the above discussion, FIR No.366 dated 05.12.2015, under Sections 406, 498-A, 506, 34 of the IPC, registered at Police Station Hathin, District Palwal (Annexure P-1), is quashed with all consequential proceedings arising therefrom qua the petitioners.

Petition stands allowed accordingly.

[RITU BAHRI]
JUDGE

23.01.2017
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Whether Speaking/reasoned	:	Yes
Whether Reportable	:	No