

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

**CRM-M-18219-2015
Date of Decision: 15.09.2017**

Kamaljit Kaur @ Kamla Devi & Anr.

...Petitioners

Versus

State of Haryana & Anr.

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. J. S. Kamboj, Advocate
for the petitioners.

Mr. P. P. Chahar, DAG, Haryana.

Mr. Rajesh Pal, Advocate
for respondent No. 2.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 121 dated 10.06.2014, under Sections 323, 406, 498-A, 420, 506 and 120-B of the Indian Penal Code, registered at Police Station Pinjore, District Panchkula, Haryana and all subsequent proceedings arising therefrom on the ground that the petitioners have been falsely implicated in this case.

In brief, the facts are that complainant-Neel Kamal got married with Sukhwinder Singh, son of petitioner No. 1, on 13.07.2005. Out of this wedlock, a female child was born on 03.05.2006. A dispute arose between the parties which led to her filing the complaint dated 21.04.2010 before the

Superintendent of Police, Panchkula. This matter was investigated in which the DSP came to the conclusion that the dispute was between the husband and wife and no role could be attributed to Kamaljit Kaur, mother-in-law of the complainant, petitioner No. 1 herein. Thereafter, certain papers titled as “Divorce Deed” were drawn up whereby complainant-Neel Kamal stated that relationship between husband and wife was not good and that now she gives divorce to her husband and has received a sum of Rs. 4,00,000/- from Kamla Devi, mother of the husband, as lifetime maintenance, alimony etc. However, after the alleged papers were drawn up, complainant-Neel Kamal filed a complaint under Section 156(3) Cr.P.C. alleging demand of dowry, humiliation as well as forcibly keeping the minor daughter away from her. On the basis of the said complaint, the aforesaid FIR came to be registered. The petitioners herein, who are the mother-in-law and sister-in-law of the complainant, have preferred this petition seeking quashing of the FIR in question along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioners urges that the petitioners herein have been roped in without adequate reasons. In fact, the dispute, if any, has arisen out of a matrimonial discord which is between son of petitioner No. 1 Sukhwinder Singh and the complainant. It is also argued that Sukhwinder Singh does not reside with them and in fact is a resident of Canada as would be evident from the complaint itself. In the complaint, it has been specifically mentioned that accused No. 1, namely Sukhwinder Singh-husband, has gone to Canada. It is also argued that petitioner No. 1 herein had given a sum of Rs. 4,00,000/- to the complainant as would be evident from Annexure P/6 which has been signed by the complainant in the

presence of other members of the society. It is also contended that petitioner No. 2 is married sister-in-law who is residing separately for more than 18 years i. e. since the date of her marriage.

Per contra, learned counsel for respondent No. 2 submits that specific allegations have been made out in the complaint for demand of dowry and beatings at the hands of the petitioners and, therefore, there is no ground made out for interference by this Court in the proceedings initiated under the FIR in question.

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

Admittedly, the petitioner No. 1 is the mother-in-law of the complainant aged about 67 years and petitioner No. 2 is the married sister-in-law. A complaint had initially been filed by the complainant before the Superintendent of Police, Panchkula which had duly been investigated into and after investigation, an opinion had been formed that no offence is made out against Kamaljit Kaur, petitioner No. 1 herein. It is only thereafter that the FIR in question came to be registered. It is also not countered that the complainant had received a sum of Rs. 4,00,000/-. The main allegation of the complainant are that her husband Sukhwinder Singh had demanded a sum of Rs. 2,00,000/- from her parents as he wanted to go to Dubai for business and thereafter she was not called to Dubai. Again allegations are made that Sukhwinder Singh came to India in the year 2008 and started demanding Rs. 2,00,000/- and gold articles as well as the passport of the complainant. The complainant accepted the demand of her husband and gave him Rs. 2,00,000/- in cash and gold article, pursuant to which, he had

gone to Canada. In this regard, a receipt has been written on 09.05.2008 which is dully signed by the accused persons. After going to Canada, Sukhwinder Singh never talked with the complainant nor did he call her to Canada and she has come to know that he has solemnized second marriage in Canada, out of which wedlock, he has two children. It was further alleged that accused Nos. 2 and 3 knew that Sukhwinder Singh had solemnized the second marriage in Canada and they spoiled the life of the complainant. The accused persons also used to beat the complainant continuously and did not give her meals and clothes. It has also been alleged that the petitioners had thrown her out of the house and kept her daughter along with them and threatened her that if she tried to take her daughter or tried to lodge any complaint, they would do away with the life of the complainant.

The allegations regarding demand of dowry have been raised primarily against the husband while stating that he had solemnized another marriage in Canada. The allegations are general in nature qua the petitioners and are not sustainable. There is no specific allegation or details made out in the FIR to satisfy the ingredients of Sections 406 and 498-A of the IPC against the petitioners. Moreover, petitioner No. 2 is the married sister-in-law and again no specific allegations have been made against her. The Apex Court in the judgment rendered in ***Preeti Gupta and another vs. State of Jharkhand, AIR 2010 SC 3363*** has observed as under :

“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 scrutinized with great care and circumspection. ”

Moreover, one cannot lose sight of the fact that the petitioner herein has paid a sum of Rs. 4,00,000/- to the complainant as full and final settlement as evident from the “Divorce Deed”. It is also brought to the notice of this Court that petitioner No. 1 is looking after the minor child born out of the wedlock between the complainant and her son.

In view of above, this petition is allowed and FIR No. 121 dated 10.06.2014, under Sections 323, 406, 498-A, 420, 506 and 120-B of the Indian Penal Code, registered at Police Station Pinjore, District Panchkula, Haryana and all subsequent proceedings arising out of the same are quashed qua the petitioners herein.

15.09.2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No