

CRM -M-22776 of 2013(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

CRM -M-22776 of 2013(O&M)

Date of Decision: 10.5.2017

Sukhwinder Singh and others

---Petitioners

versus

Paramjit Kaur

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Gagandeep Singh, Advocate
for the petitioners**

**Mr. B.S.Sidhu, Advocate
for the respondent**

Rekha Mittal, J.

The petitioners have filed the instant petition under Section 482 of the Code of Criminal Procedure (in short “Cr.P.C.”) for quashing of complaint No. 1055 dated 22.12.2011 titled “Paramjit Kaur vs. Sukhwinder Singh and others” (Annexure P-3), summoning order dated 30.1.2013 (Annexure P-5) and proceedings emanating therefrom.

Counsel for the petitioner has submitted that petitioner No. 1 was married to respondent on 4.11.2007. After the marriage, respondent used to pick up quarrels on petty issues with the family members and was not interested to do household work. Petitioner No. 1 is the only son of petitioner Nos. 2 and 3. Petitioner No. 2 is a heart patient and is not in a position to do agriculture work. It is argued with vehemence that as the

respondent/complainant failed to adjust in her in-laws house, on 2.7.2010 she gave mercury poison in milk to petitioner Nos. 2 and 3, with an intention to kill them. Petitioner Nos. 2 and 3 were taken to civil hospital, Sidhwan Bet and with regard to this incident, FIR No. 20 dated 21.3.2011 under Section 328 of the Indian Penal Code (in short "IPC") was registered against the respondent in Police Station, Sidhwan Bet, Ludhiana. It is further argued that after full-fledged trial in regard to the aforesaid FIR No. 20 dated 21.3.2011, the respondent has been convicted and sentenced for committing offence punishable under Section 328 IPC. It is further argued that as a counter blast to the criminal proceedings initiated at the instance of Karamjit Kaur petitioner No. 3 vide report No. 14 dated 3.7.2010 that led to registration of FIR No. 20 dated 21.3.2011, respondent Paramjit Kaur filed private complainant in December 2011 by levelling allegations in para 10 that on 3.7.2010 Sukhwinder Singh and others (including petitioners herein) on account of demand of car had thrown the complainant with her child out of their house. It is argued that the story propounded by the respondent gets completely dismantled from report No. 14 dated 3.7.2010 lodged by Karamjit Kaur and the criminal proceedings initiated against the respondent as petitioners No. 2 and 3 were struggling for their life lying admitted in the hospital due to poisoning, therefore, question of making any demand of dowry on 3.7.2010 is nothing but concocted to pressurize the petitioners to settle the proceedings launched against her under Section 328 IPC.

Another submission made by counsel is that Station House Officer, Police Station, Moga submitted report dated 2.10.2012 holding that 'there is a dispute of Paramjit Kaur with her in-laws family. The

complainant had filed a false complaint regarding demand of dowry with intention that enquiry pending against her will be withdrawn. The complainant failed to produce any evidence on record which shows that dowry has been demanded by the in-laws'. The last submission made by counsel is that the criminal proceedings initiated by the respondent are nothing but an abuse and misuse of process of law and liable to be quashed.

Counsel for the respondent/complainant would urge that after recording post charge evidence, the case is now fixed for recording statement of the accused under Section 313 Cr.P.C. It is further submitted that the petitioners have sought to raise disputed questions of fact not amenable to adjudication under Section 482 Cr.P.C. According to counsel, as the trial pending before the court below has reached at its fag end, it is expedient in the interest of justice that the proceedings are brought to its logical end on the basis of evidence adduced by the parties.

I have heard counsel for the parties and perused the paper book.

Counsel for the petitioners is not in a position to clarify if the report dated 2.10.2012 (Annexure P-3) sought to be relied upon was submitted by the Station House Officer, Moga before any authority much less a court of law. He has also not disputed that during pendency of the petition filed as back as in the year 2013, the proceedings have reached at the stage of recording statements of the accused under Section 313 Cr.P.C. after recording pre charge evidence of the complainant, framing of charge against the accused and providing an opportunity to the accused to further cross examine the witnesses examined at the pre charge stage. The order framing charge could be challenged by way of revision. The petitioners

did not make amendment in the petition to challenge the order framing charge. Under Section 245 Cr.P.C. the Magistrate is obliged to discharge the accused if, upon taking all the evidence referred to in section 244 Cr.P.C., the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction .

Taking into consideration the provisions of Section 245 Cr.P.C. coupled with the stage of proceedings pending before the court below, I do not find any reason to intervene in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

For the foregoing reasons, the petition is disposed of without prejudice to rights of the petitioner to raise all available pleas before the trial court. Nothing stated hereinbefore shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

10.5.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No