

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

**CRM No. M-2964 of 2014
Date of decision: 19.05.2017**

Ram Parkash Dhiman and others

.....Petitioners

Versus

Babu Ram

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Sarika Gupta, Advocate,
for the petitioners.

Mr. Vikramjit Singh, Advocate,
for Ms. Aashna Gill, Advocate,
for the respondent.

Ritu Bahri, J.

The petitioners are seeking quashing of Criminal Complaint No.732/2008, titled as **Babu Ram Vs. Ram Parkash and others** (Annexure P-1) and summoning order dated 26.08.2013 (Annexure P-2) passed by the Sub Divisional Judicial Magistrate, Bilaspur, District Yamuna Nagar.

Babu Ram-respondent filed a complaint (Annexure P-1) under Section 420, 500, 506, 34 read with Section 120-B IPC against the petitioners on 07.04.2008 with the allegations that in the month of December, 2006, accused-petitioners had gone to the shop of complainant-respondent and had stated that Darshan Lal-petitioner No.3, who had done MA, was serving in a private company and was earning Rs.20,000/- per month. Thereafter,

they proposed Babu Ram to perform marriage of his daughter with Darshan

Lal. Believing the statement of the petitioners to be true, the respondent solemnized the marriage of his daughter-Poonam with Darshan Lal on 21.04.2007. He had spent a sum of Rs.15,00,000/- in the marriage. Later on, he came to know that Darshan Lal-petitioner No.3 was only 10+2 pass and was in the habit of taking medicines and liquor. He was also mentally unfit. After marriage, he used to give beatings to Poonam. Ultimately, she was thrown out of her matrimonial home on 28.11.2007. In this background, complaint (Annexure P-1) was filed.

Trial Court after going through the preliminary evidence led by complainant-respondent, summoned the accused-petitioners to face trial under Section 323, 420, 506, 34 read with Section 120-B IPC vide order dated 26.08.2013 (Annexure P-2).

Learned counsel for the petitioners states that an FIR No.180 dated 27.12.2007, under Sections 498-A, 406 and 323 IPC was got registered by Poonam-complainant against her husband-Darshan Lal, father-in-law Ram Parkash and mother-in-law Shakuntla. However, all these accused have been acquitted of the charges framed against them vide judgment dated 09.10.2013 (Annexure P-3). Poonam also filed a petition under Section 13 of the Hindu Marriage Act, 1955 (Annexure P-4) seeking divorce on the grounds of cruelty and desertion. Even in this petition, same allegations were levelled against the petitioners. During the pendency of aforesaid petition, number of witnesses were examined. Later on, both the parties compromised the matter vide compromise dated 10.03.2011 (Annexure P-5). A perusal of compromise (Annexure P-5) shows that Poonam, daughter of complainant, was fully compensated for her past, present and future maintenance. Dowry articles were also taken by her.

Thereafter, marriage of Poonam and Darshan Lal was dissolved with mutual consent vide judgment dated 10.03.2011 (Annexure P-6). Poonam had also filed Civil Suit No.334 of 2008 for declaration that she was entitled to recover Rs.10,000/- per month as maintenance from her husband. However, the said suit was dismissed vide judgment dated 21.07.2010 (Annexure P-8) as she could not lead any evidence in support of her claim. Plea taken by Poonam in the aforesaid suit was that petitioner Nos. 1 and 2 had disclosed that Darshan Lal-petitioner No.3 was postgraduate and had good capacity to work. It was further stated that she herself was MA and was appearing in IPS examination. A perusal of judgment dated 21.07.2010 (Annexure P-8) shows that there was no allegation that the petitioners had told the respondent that Darshan Lal was getting the salary of Rs.20,000/- per month.

Another fact, which requires consideration is that during trial in case FIR No.180 dated 27.12.2007, an application under Section 319 Cr.P.C. was filed by the prosecution for summoning of the additional accused. But, the said application was dismissed vide order dated 09.02.2010 (Annexure P-7) as there was no evidence with regard to any fraud committed by the parents of Darshan Lal that they had given some wrong information to the complainant to solemnize the marriage of Poonam with Darshan Lal. Thus, the allegations of fraud (attracting Section 420 IPC) have not been substantiated and proved. Ultimately, the in-laws of Poonam were acquitted vide judgment dated 09.10.2013 (Annexure P-3) as the allegations of harassment and demand of dowry could not be proved by the prosecution.

In the earlier criminal case also, the complainant had alleged that

Poonam (daughter of present complainant) was being harassed on account of bringing inadequate dowry and her *istridhan* had been misappropriated by her in-laws (petitioners). On the same set of allegations, the present complaint has been filed by complainant-respondent, which is not sustainable in the eyes of law.

After hearing learned counsel for the parties and going through the contents of the petition, this Court is of the view that continuation of criminal proceedings in the present complaint (Annexure P-1) would amount to abuse of the process of Court as a decree of divorce with mutual consent has already been granted to Poonam (daughter of complainant) and Darshan Lal vide judgment dated 10.03.2011 (Annexure P-6). Moreover, vide judgment dated 09.10.2013 (Annexure P-3), the in-laws of Poonam have already been acquitted of the charges framed against them in case FIR No.180 dated 27.12.2007.

In these circumstances, Criminal Complaint No.732/2008, titled as **Babu Ram Vs. Ram Parkash and others** (Annexure P-1) and summoning order dated 26.08.2013 (Annexure P-2) passed by the Sub Divisional Judicial Magistrate, Bilaspur, District Yamuna Nagar are quashed with all consequential proceedings arising therefrom qua the petitioners.

The petition stands allowed accordingly.

19.05.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No