

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

**Crl. Misc. No. M-32809 of 2014
Date of decision :- 02.05.2017**

Vijay Kumar and others

...Petitioners

versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kiran Kumar, Advocate
for the petitioners

Mr. Jaspreet Sekhon, AAG, Punjab

RITU BAHRI, J. (Oral)

Prayer in this petition is for quashing of F.I.R No. 97 dated 24.11.2013 under Sections 406/498-A, registered at P.S. Women Cell, Jalandhar.

Learned counsel at the very outset does not press the petition qua petitioner No. 1 and restrict his prayer for quashing of F.I.R qua petitioner No. 2-brother-in-law and petitioner No. 3-sister-in-law.

Learned counsel submits that the marriage of petitioner No. 1 was solemnized on 21.03.2009 with respondent No. 2. Petitioner Nos. 2 and 3 are residing separately and are having separate accommodation in the same village but at a distant place from the matrimonial house of petitioner No. 1. Petitioner No. 2 is running a separate medical shop and his wife petitioner No. 3 is a house wife and is blessed with two daughters.

As per reply filed by Assistant Commissioner of Police

Headquarters, Jalandhar, there are specific allegations against the petitioners and challan has already been presented against the petitioners.

This Court vide order dated 24.09.2014 referred the parties to Mediation Centre for an out of Court settlement, but as per the report of the Mediator dated 18.03.2015, the mediation has failed between the parties.

A bare perusal of challan shows that no reasons were given for presenting challan against petitioner Nos. 2 and 3. Further now a days there is general tendency to rope the entire in-laws family, as in the present case, petitioner Nos. 2 and 3 were residing separately, which is evident from the ration card (Annexure P-4) and had nothing to do with the matrimonial life of the complainant.

The allegations against petitioner No. 2 and 3 are general in nature and thus, 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 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 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.

So, the allegations levelled by the complainant against petitioner No. 2 and 3 are all general in nature. Further, there was no allegation against petitioner No. 2 and 3 with regard to cruelty or harassment.

Applying the ratio of the above mentioned judgment, F.I.R No. 97 dated 24.11.2013 under Sections 406/498-A, registered at P.S. Women Cell, Jalandhar are quashed qua petitioner No. 2 and 3.

The petitions stand disposed of.

Further the learned trial Court is directed to proceed with the trial in accordance with law against the remaining accused.

02.05.2017
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No