

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

CRM-M No. 42838 of 2013(O&M)

Date of decision: 3.5.2017

Mukesh Kumar

....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rahul Bhargava, Advocate for the petitioner.

Mr. Mikhail Kad, AAG, Punjab.

None for respondent No.2.

REKHA MITTAL, J.

The petitioner has invoked jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') for quashing FIR No.246 dated 06.11.2013 under Section 498-A of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Sadar, District Amritsar City and proceedings emanating therefrom.

Counsel for the petitioner has submitted that Charanjit Kaur – respondent No.2/complainant was married with Pramod Kumar son of late Sh. Mohan Singh on 05.08.2012. As per the allegations levelled by the complainant, soon after her marriage, her in-laws' family started ill-treating her for demand of dowry. It is argued that the petitioner is neither a member of in-laws family of the complainant nor a relative of husband of the complainant rather he is a friend of husband of the complainant and has been unnecessarily dragged in the litigation. It is further argued that no case for committing offence under Section 498-A IPC is made out against the petitioner. To substantiate his contention, counsel has carried the Court through allegations raised in the FIR and would state that on page 13 of the

paper-book, the only allegation against the petitioner is that “after registration of Rapt or case against the above-said persons regarding missing of my husband and my husband may be traced out. Mukesh i.e. friend of my husband and remaining in-laws family have complete knowledge that where my husband Parmod is but they are not ready to tell”.

Counsel representing State of Punjab has submitted that charge under Section 498-A IPC has been framed against the accused including the petitioner vide order dated 18.05.2015 passed by the Additional Chief Judicial Magistrate, Amritsar. Further argued that after framing of charge, it should be left to be decided by the Court if the petitioner is guilty of committing the offence charged against him.

There is no representation on behalf of respondent No.2 who at one point of time was represented by a counsel but that counsel neither appeared in the Court after 29.11.2014 nor any reply on behalf of respondent No.2 has been filed to counter the allegations raised in the petition.

I have heard counsel for the petitioner and respondent No.1 and perused the records.

The petitioner in para 4 of the petition has averred that he is a friend of husband of the complainant. The allegations are with regard to demand of dowry from the complainant by her in-laws family members but there is no allegation against the petitioner for the alleged demand of dowry.

Respondent – State in the reply by way of affidavit of Dr. Bal Krishan Singla, Assistant Commissioner of Police, North, Amritsar City in

response to para 4 on merits has not denied that the petitioner is a friend of husband of the complainant though the said fact has been clearly mentioned in the FIR by the complainant herself. On the contrary, it has been averred in the reply in para 4 that specific allegations had been levelled and found to be true against the petitioner for mal-treating and teasing the complainant/respondent No.2 by the petitioner. On a pointed query raised by the Court, counsel for the State is not in a position to point out any allegations against the petitioner qua mal-treatment much less on account of demand of dowry. He has even failed to point out any other allegation against the petitioner except the one pointed out by counsel for the petitioner and taken note of in the earlier part of the judgment.

A careful reading of the allegations raised in the FIR would substantiate plea of the petitioner that even if the allegations raised in the FIR are taken on its face value, no case for committing offence under Section 498-A IPC is made out against the petitioner.

Another important aspect of the matter is whether the petitioner who is a friend of husband of the complainant can be indicted for committing offence under Section 498-A IPC in the light of ingredients of offence of cruelty by husband or relatives of husband.

Section 498-A IPC says that whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Meaning of cruelty has been provided in the explanation appended to Section 498-A, not relevant in the present context.

Counsel for the State has failed to advance any argument much less meaningful as to how the present petitioner can be said to be a relative of husband of the complainant to bring him within the purview of Section 498-A IPC disregarding whether any acts of cruelty have been attributed to him or otherwise. As the petitioner is only a friend of husband of the complainant, he cannot be subject to rigmarole of criminal proceedings under Section 498-A IPC, initiated at the instance of respondent No.2. Analyzed from any angle, I find merit in the contentions of the petitioner that criminal proceedings initiated against the petitioner are nothing but an abuse and misuse of process of law, thus, liable to be quashed.

For the foregoing reasons, the petition is allowed. FIR No.246 dated 06.11.2013 under Section 498-A IPC registered at Police Station Sadar, District Amritsar City and proceedings emanating therefrom including order dated 18.05.2015 framing charge and the charge-sheet of the even date are quashed qua the petitioner. However, nothing stated hereinbefore shall cause prejudice to the respondent/complainant in pursuing her grievance against other accused.

MAY 3, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no