

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

**Crl. Misc. No. M-43076 of 2015
Date of decision : 20.04.2017**

Amarjit KaurPetitioner

versus

State of Punjab and anr. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Payel Mehta, Advocate
for the petitioner.

Mr. Jaspreet Sekhon, AAG, Punjab

Mr. G.S. Sidhu, Advocate
for respondent No. 2

RITU BAHRI, J.

Petitioner, who is 67 years old lady and is ailing from several age related medical problems, is seeking quashing of F.I.R 178 dated 26.12.2014 under Section 406/498-A IPC, registered at P.S. Women Cell, Patiala.

The marriage of the son of petitioner was solemnized with the complainant on 28.11.2010 and after marriage, the complainant started raising quarrels with the son of the petitioner. One child was born out of this wedlock on 13.06.2012. However, on 01.10.2012, the complainant ran away from the house of petitioner without informing anything to her. She even left her 2 ½ months old child alone at home. F.I.R was registered against the petitioner on account of harassment and humiliation caused by the petitioner and her son, on the pretext of bringing less dowry by

respondent No. 2.

Earlier as well, the complainant lodged complaint in April, 2013 (Annexure P-2) against the petitioner with regard to similar allegations but the said complainant was found to be false and fabricated, in view of the report dated 01.10.2013 (Annexure P-3). Thereafter, she lodged another complaint dated 08.07.2014 (Annexure P-4) against the son of the petitioner wherein she had shown her willingness to stay with the son of the petitioner and the police without conducting proper inquiry, registered the present F.I.R.

Learned counsel contends that the present F.I.R is liable to be quashed as in the complaint dated 08.07.2014, petitioner has not been named. Further the earlier complaint filed by the complainant on 10.04.2013, was voluntarily withdrawn by the complainant and even no merits were found in the complaint of the complainant. Even no offence under Section 406 IPC is made out against the petitioner. The complainant has only levelled allegations against her husband that he was not ready to accept the complainant.

On notice, a reply has been filed by the State stating therein that challan has been presented on 29.07.2015. It has been further stated that after the complainant gave birth to daughter, she was thrown out of her house by the petitioner and her son. She went to Gurudwara Sahib Ludhiana. When the respectable approached the petitioner and her son to rehabilitate with respondent No. 2 in her matrimonial house, then the petitioner misbehaved with respectables/panchayat.

The question for consideration before this Court would be what was the role of the petitioner when her daughter-in-law was thrown out from the matrimonial house and the complainant thereafter, went to Gurudwara Sahib Ludhiana

This aspect will be seen by the trial Court when the parties will lead their respective evidence.

Reference at this stage can be made to a judgments **i.e State of Haryana and others v. Bhajan Lal and others, AIR 1992 SC 604 (1), S.Khusboo vs.Kanniamal and another, 2010 (2) RCR (Criminal) 793 and Som Mittal vs. State of Karnataka, (2008) 3 SCC 574.** The law relating to quashing of criminal proceedings is summed up as follows:-

“(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their fact value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the F.I.R do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a magistrate as contemplated under Section 155 (2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.”

This petition at this stage is being ***disposed of*** by giving liberty

to the petitioner to take all the pleas before the trial Court.

However, keeping in view the age of the petitioner, her personal appearance is exempted before the trial Court, subject to the following conditions:- (i) petitioner shall be represented through counsel; (ii) shall not delay/stall the trial proceedings; (iii) shall not dispute her identity as an accused; (iv) shall have no objection if the prosecution evidence is recorded in her their absence but in the presence of her counsel; (v) shall appear before the trial Court as and when required by the trial Court; and (vi) any other condition which the learned trial Court may impose.

20.04.2017
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>