

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

Crl. Misc. No. M-4517 of 2016

Date of decision :- 05.04.2017

Rajender and others

...Petitioners

versus

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioners

Mr. D.R. Singla, DAG, Haryana

Mr. Ashish Yadav, Advocate for respondent No. 2

RITU BAHRI, J. (Oral)

Prayer in this petition is for quashing of summoning order dated 25.09.2014 under Section 498-A and judgment dated 16.12.2015.

Learned counsel on 08.02.2016 has not pressed the petition qua petitioner Nos. 1 and 2 and the petition stands dismissed qua petitioner Nos. 1 and 2.

Petitioner Nos. 3 and 4 are brother-in-law and sister-in-law of the complainant. Petitioner No. 4 is married and residing with her husband and the marriage was solemnized on 24.06.2010 since then she is residing in her in-laws house and has nothing to do with the matrimonial affair of the complainant. On the other hand, petitioner No. 3 was the student at the relevant period, as his date of birth is 19.08.1991 and in the year 2013-14, he was student of M.Sc Micro Biology.

A bare perusal of impugned orders show that the complainant

C.W.1 in her preliminary evidence has stated that the accused person gave beatings to her and ejected her along with her daughter from her matrimonial house. The Court below summoned the petitioners only under Section 498-A IPC as the complainant failed to prove the commission of offence punishable under Section 323/406/506 IPC.

However, the Courts below have ignored the fact that petitioner No. 4 was married and residing with her husband. After her marriage, she was residing in her in-laws house and has nothing to do with the matrimonial affair of the complainant. Further petitioner No. 3 (brother-in-law) was the student at the relevant period, as his date of birth is 19.08.1991 and in the year 2013-14, he was student of M.Sc Micro Biology.

Heard learned counsel for the parties.

The allegations against petitioner No. 3 and 4 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. 3 and 4 are all general in nature. Further, there was no allegation against petitioner No. 3 and 4 with regard to cruelty or harassment.

Applying the ratio of the above mentioned judgment, order dated 25.09.2014 under Section 498-A and judgment dated 16.12.2015 are quashed qua petitioner No. 3 and 4.

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.

05.04.2017
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No