

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

Criminal Misc. No. M- 44362 of 2017 (O&M)

Date of decision : December 01, 2017

Manipal

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. K.S. Khehar, Advocate
for the petitioner.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 12 dated 08.01.2015 under Sections 406, 498A, 323, 506 IPC registered at Police Station Sadar, Palwal as well as charge sheet dated 27.07.2015.

Brief facts of the case are that the above said FIR was registered on a complaint submitted by respondent No. 2 – wife of the petitioner. As per the allegations in the FIR, marriage between the petitioner and respondent No. 2 was solemnised on 26.01.2011. A sum of Rs.10 lakhs was allegedly spent on the marriage. Dowry beyond capacity of the complainant's parents is stated to have been given to the petitioner and his family. It is averred that the petitioner, his parents and sisters were unhappy with the dowry received. Thereafter, the complainant was subjected to ill-treatment and harassment at their hands. They raised a demand of a Swift car and Rs.5 lakhs in cash. When inability was expressed by the complainant side to fulfil the said demands, she was subjected to further ill-treatment. The complainant was ultimately sent to her parental home alongwith her brother. She was sent back to her in-laws home by her

parents. Her father spent a sum of Rs.53,000/- for getting her admitted for pursuing A.N.M. course in Gadhkhara. The complainant was, however, not allowed to pursue the same. She became pregnant and as per the allegations in the FIR, she was given some medicine for termination of the pregnancy. The complainant further stated that she became pregnant yet again for the second time. When the petitioner and his family came to know about the same, they again tried to forcibly administer medicine for terminating the pregnancy. When she refused to take the medicine, she was subjected to physical abuse. Medicine was forcibly administered to her and her pregnancy was terminated for the second time. As per the FIR, the complainant became pregnant for the third time but she, however, did not disclose it to the petitioner and his family this time. The petitioner as well as his family learnt about the pregnancy after five months on which she was again subjected to physical abuse. It is stated that the complainant pleaded with the accused that she should be permitted to carry on with the pregnancy this time and she would ask her parents to fulfil their demands after the child was born. The complainant ultimately gave birth to a daughter. Thereon, the complainant is alleged to be subjected to endless taunts for giving birth to a daughter. Proper and timely medical treatment was not afforded due to which the child died. As per the allegations in the FIR, the complainant was locked up in a room on 30.10.2014 and subjected to physical abuse. She managed to call her father at night who arrived at her matrimonial home on 31.10.2014 but the accused misbehaved with her father and others who accompanied them and pushed them out of the house. The complainant's father reported the same at Police Post Nimot and the complainant was rescued by the police. It is alleged that her belongings

including her certificates were retained by the accused. It is alleged that the complainant was again pregnant by two and a half months at that time. With the said allegations, complaint was submitted on 18.11.2014 stating that she was residing with her parents since then. Abovesaid FIR was, accordingly, registered.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. It is argued that a civil suit was filed by the complainant for restraining the petitioner from solemnising the second marriage. The said suit for permanent injunction was dismissed on 30.07.2016. While referring to cross examination of the complainant in the said proceedings (Annexure P-4), learned counsel for the petitioner seeks to urge that no dowry was demanded by the petitioner at his family nor given by the complainant/her parents at the time of marriage neither was she ever subjected to any kind of harassment.

Moreover, six persons, it is submitted, were named in the FIR. All of them except the present petitioner were found innocent. Accusations against all of them are common, therefore, the present petition for quashing of the said FIR deserves to be allowed.

I have heard learned counsel for the petitioner at length.

Specific allegations have been raised in the FIR regarding demand of dowry as well as physical abuse by the complainant. Dismissal of the civil suit by the complainant seeking permanent injunction for restraining the petitioner from solemnising second marriage can not be taken in account at this stage to test the veracity of the allegations in the present case.

I have perused the statement of the complainant (Annexure P4).

The same does not advance the case of the petitioner in any manner at this stage to seek quashing of the FIR. Similarly, the other accused being found innocent during investigation does not automatically entitle the petitioner to seek quashing of the above said FIR and the charge sheet and neither does it mean dilution of allegations against him.

It is to be noted that charge in this case was framed on 27.07.2015. The matter is fixed before the learned trial Court for leading of prosecution evidence. Appreciation of evidence ultimately led by the parties is entirely in the domain of the learned trial Court. Disputed questions of fact cannot be delved into by this Court at this stage to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR in question.

Keeping in view the facts and circumstances of the case, I do not find any ground whatsoever to interfere, at this stage, for quashing of FIR No. 12 dated 08.01.2015 under Sections 406, 498A, 323, 506 IPC registered at Police Station Sadar, Palwal as well as charge sheet dated 27.07.2015.

Present petition is, accordingly, dismissed.

It is clarified that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial. The same are confined for the decision of the present petition.

December 01, 2017
rts

(Lisa Gill)
Judge

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