

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

CRM-M-9091-2014 (O&M)

Date of Decision : 28.08.2017

Ranjit Kaur and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Sharma, Advocate,
for the petitioners.

Mr. N.K. Banka, DAG, Punjab.

Mr. D.S. Sandhu, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J (ORAL)

The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.122 dated 17.07.2007, registered under Sections 406 and 498-A of the Indian Penal Code, at P.S. City Batala, and all consequential proceedings arising therefrom.

It is contended that the petitioners are married sisters-in-law of complainant-respondent No.2. Their marriages were performed prior to the marriage of the complainant with the brother of the petitioners. Petitioner Nos.1 and 2 have not even been named in the

FIR, whereas, only vague and general allegations have been levelled against petitioner No.3. The matter was inquired into by the police and after investigation, all the petitioners were exonerated and challan was not presented against them. The complainant named the petitioners for the first time while appearing as PW-1. Therefore, she moved an application under Section 319 Cr.P.C. for summoning the petitioners as additional accused, which has been erroneously allowed by learned trial Court.

On the other hand, learned State counsel informed that Harpreet Singh (husband) and Karnail Kaur (mother-in-law) have already been convicted vide judgment/order dated 26.03.2015, by the court of Learned Sub-Divisional Judicial Magistrate, Batala. Their appeal against said conviction has also been dismissed by learned Additional Sessions Judge, Gurdaspur vide judgment/order dated 27.02.2017.

Learned counsel for complainant-respondent No.2 argued that the petitioners have been summoned by learned trial Court after appreciating the fact that all the petitioners have been specifically named in the complaint Ex.PA, moved before SSP, Batala and that specific allegations have been levelled against them.

Heard.

In the instant case, initially, the petitioners along with co-accused Harpreet Singh and Karnail Kaur were nominated as accused. After investigation, challan was presented only qua Harpreet Singh and

Karnail Kaur, whereas, no incriminating material was found against the present petitioners. This Court in ***Tarsem Kaur Vs. State of Haryana, 2013(7) R.C.R. (Criminal) 1893 (P&H)***, has observed as under:-

“11. As strange as it may appear, but strictly speaking, the tendency and frequency of the wives of involving and roping in all the relations of her in-laws in the matter of demand of dowry have been tremendously increasing day by day, which is adversely affecting social fabric of the society and leaving the Courts in lurch to decide such criminal prosecution. This tendency needs to be curbed and if not discouraged, it is likely to affect and weaken the case of the prosecution even against the real culprits in future. In this manner, the very purpose of introducing Section 498-A Indian Penal Code would pale into insignificance in this relevant connection. This matter is no more res integra and now well settled.”

Furthermore, the controversy regarding summoning under Section 319 Cr.P.C. has been settled by Hon'ble the Apex Court in ***'(2014) 3 SCC 92, Hardeep Singh Vs. State of Punjab and others'***. Their Lordships have held as under:-

“Though under [Section 319\(4\)\(b\)](#) Cr.P.C.

the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under [Section 319](#) Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.”

In the instant case, there is nothing on record to make out a 'more than prima facie' case against the petitioners, who are married sisters-in-law of respondent No.2.

In view of the above discussion, the instant petition succeeds; FIR No.122 dated 17.07.2007, registered under Sections 406 and 498-A of the Indian Penal Code, at P.S. City Batala, and all consequential proceedings arising therefrom, are hereby quashed, qua the present petitioners

28.08.2017
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No