

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

Crl. Misc. M-4966 of 2017(O&M)
Date of Decision: December 20, 2017

Saroj Rani

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. J.S. Grewal, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG Haryana.

Mr. S.P. Arora, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No.313 dated 05.05.2016, under Section 323, 34, 406, 498-A, 506 of Indian Penal Code, registered at Police Station City Sirsa, District Sirsa and the subsequent proceedings arising therefrom qua the petitioner.

2. In brief the facts of the case are that, the petitioner is a 55 years old lady, who is working as AJBT School Teacher at Abohar and is residing at Old Suraj Nagari. It is stated that brother of petitioner namely Gurmeet Singh married respondent No.2 on 01.05.2012 and in the said marriage, nothing was entrusted or given to the petitioner herein. The marriage of her

brother and respondent No.2 did not survive the test of time, which resulted in registration of the aforesaid FIR. After completing the investigation, challan was filed against the petitioner along with her brother Gurmeet Singh. By way of instant petition, the petitioner is seeking quashing of the aforesaid FIR registered by wife of his brother Gurmeet Singh qua her, on the ground that the petitioner, who is married sister of Gurmeet Singh (husband of respondent No.2), has nothing to do with the matrimonial dispute of respondent No.2 and her husband.

3. Mr. J.S. Grewal, learned counsel appearing on behalf of the petitioner argues that the petitioner is a government employee has been falsely implicated in the instant FIR by raising frivolous allegations. It is submitted that there is no specific allegation raised against the petitioner, in fact, from a reading of the FIR, no case is made out against the petitioner. It is contended that there is no direct allegations against the petitioner in the whole FIR regarding any demand of dowry or misappropriation of the same. It is argued that no role has been attributed to the petitioner in the FIR and her name has been mentioned in the headnote of the FIR, only to pressurize the brother of the petitioner. It is also argued that the petitioner is resident of Abohar, Punjab and has been residing in her matrimonial home since the past 22 years at a distance of 120 kilometers .

4. Per contra, Mr. P.P. Chahar, learned counsel appearing on behalf of respondent-State as well as Mr. S.P. Arora, learned counsel appearing on behalf of respondent No.2 argued that sufficient material has been collected against the petitioner herein during the investigation. It is contended that the petitioner herein has played a major role in disturbing the

married life of complainant-respondent No.2. It is submitted that on investigation the petitioner has been found guilty for the commission of cruelty, demand of dowry and also for criminally intimidating the complainant and therefore, she has been correctly summoned to face trial.

5. I have heard learned counsel for the parties, apart from perusing the record.

6. The petitioner herein is the married sister-in-law of complainant-respondent No.2. While seeking quashing of the instant FIR qua the petitioner herein, learned counsel for the petitioner has stressed on the point that there is no specific allegation against the petitioner herein, more so, no role has been attributed to the petitioner herein, therefore, no offence is made out against the petitioner and she has been roped only to pressurize her brother Gurmeet Singh. It is the contention of the petitioner that she is a government employee, aged 55 years and working as a teacher and having two sons studying in college/school.

7. This court has minutely gone through the FIR, which has been registered against Gurmeet Singh, Jeet Kaur and Saroj i.e. the present petitioner. It is not in dispute that Jeet Kaur i.e. mother-in-law of complainant/respondent No.2, has died during the pendency of the instant FIR. From the perusal of contents of the FIR, the following facts are borne out;-

- i) that only in the head note of the FIR, the name of the petitioner herein has been mentioned,
- ii) that no specific dowry article/*istridhan* was entrusted to the petitioner herein,

- iii) that no demand of dowry has been attributed to the petitioner herein,
- iv) that no role has been attributed to the petitioner herein in giving alleged beating to the complainant, to fulfill the alleged demand of dowry raised by husband of the complainant, and
- v) that in the FIR whatever allegations have been made regarding beating, demand of dowry, cruelty etc., the complainant has named her husband i.e. brother of the petitioner.

So, it is clear that no specific role or injury or demand of dowry or entrustment of dowry articles/*istridhan* or misappropriation of the same have been alleged against the petitioner herein, except mentioning her name in the head note of the complaint, on the basis of which the instant FIR came to be registered.

8. In the case of **Preeti Gupta and another vs. State of Jharkhand and another, (2010) 7 Supreme Court Cases 667**, the main question which fell for consideration of the Supreme Court was that whether the High Court was justified in not exercising its inherent powers under Section 482 Cr.P.C. in the facts and circumstances of the case. The Supreme Court while quashing a criminal complaint under Sections 498-A, 406, 341, 323 and 120-B of IPC read with Sections 3 and 4 of the Dowry Prohibition Act, qua married sister-in-law and unmarried brother-in-law who were residing separately, has observed as under;-

“18. The powers possessed by the High Court under Section 482 of the Code are very wide and the

very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent powers should not be exercised to stifle a legitimate prosecution, but the Court's failing to use the power for advancement of justice can also lead to grave injustice.

19. *The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.*

29. *Admittedly, Appellant No.1 is a permanent resident of Navasari, Surat, Gujarat and has been living with her husband for more than seven years. Similarly, Appellant No.2 is a permanent resident of Goregaon, Maharashtra. They have never visited the place where the the alleged incident had taken place. They had never lived with respondent No.2 and her husband. Their implication in the complaint is meant to harass and humiliate the husband's relatives. This seems to be the only basis to file this complaint against the appellants. Permitting the complainant to pursue this complaint would be an abuse of the process of law."*

9. **In B.S. Joshi and others vs. State of Haryana and another,**

(2003) 4 Supreme Court Cases 675, the Hon'ble Supreme Court has observed that;

“If for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power. Thus, the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

10. Recently in the case of **Rajesh Sharma and others vs. State of U.P. and another (Criminal Appeal No.1265 of 2017, decided on 27.07.2017)** the Hon'ble Supreme Court has observed that *“....there is need to check the tendency to rope in all family members to settle a matrimonial dispute. Omnibus allegations against all relatives of the husband cannot be taken at face value when in normal course it may only be the husband or at best his parents, who may be accused of demanding dowry or causing cruelty. To check abuse of over implication, clear supporting material is needed to proceed against other relatives of a husband.”*

11. In the case in hand, the petitioner herein is the married sister-in-law of complainant/respondent no.2 and is living separately with her husband and two sons for more than 20 years and that too at a considerable distance. Further, the petitioner herein is working as a teacher and no specific role has been attributed against her in the FIR. Not a single instance has been given as to when or as to how or in what manner, the

petitioner herein is involved in the commission of alleged offences along with her brother Gurmeet Singh.

12. In view of the foregoing discussion and ratio of law laid down by the Hon'ble Supreme Court in **Preeti Gupta and another vs. State of Jharkhand and another**, in **B.S. Joshi and others vs. State of Haryana and another** and in **Rajesh Sharma and others vs. State of U.P. and another (supra)**, this court is of the considered view that there is no general allegation, let alone specific allegation/detail against the petitioner, to constitute an offence under Sections 323, 406, 498-A, 506 of Indian Penal Code.

13. In view of the above, the instant petition is allowed. Consequently, the FIR No.313 dated 05.05.2016, under Section 323, 34, 406, 498-A, 506 of Indian Penal Code, registered at Police Station City Sirsa, District Sirsa and the subsequent proceedings arising therefrom qua the petitioner herein are quashed.

14. Needless to say, nothing observed by this court hereinabove shall have no affect on the merits of the case, which is only for the purpose of the instant petition.

December 20, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No