

Crl. Misc. No.M-12693 of 2016 (O&M)

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

**Crl. Misc. No.M-12693 of 2016 (O&M)
Date of decision : 12.10.2018**

Gurbaj Singh and ors.

.....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. DPS Bajwa, Advocate
for the petitioners.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. Arun Sharma, Advocate
for respondent no.2.

ANITA CHAUDHRY, J(ORAL)

The instant petition has been filed under Section 482 Cr.P.C. for quashing the complaint filed by respondent no.2 under Sections 307, 406, 498-A, 120-B, 506, 34 IPC and the summoning order dated 20.07.2015.

I have heard counsel of both the sides.

Counsel for the petitioners contends that an occurrence had taken place on 03.09.2014 regarding which FIR No.166 was lodged on 04.09.2014 by respondent no.2. Counsel says that the FIR is available on record which would show that only three persons were named therein and the accused were challaned and the trial had commenced and subsequently respondent no.2 filed a complaint after four months making the same

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allegations and she included three other persons who have now been summoned. Counsel further submits that the FIR relating to the incident of 03.09.2014 was registered at Police Station Garhi, which falls in District Jind and thereafter the complaint was filed in the Court at Patiala without referring to the fact that she had already got a FIR registered relating to that incident. The counsel submits that all the accused who were named have been summoned vide order Annexure P-4. The counsel further submits that another FIR had been got registered by respondent no.2 on 25.04.2015 under Section 406, 498-A IPC at Women Cell and the husband and the mother-in-law have been challaned and the trial is on and it was a case of concealment of fact and they cannot be prosecuted by three different Courts when the accused named in the first instance in FIR No. 166 registered at P.S. Garhi had ended in acquittal and they are placing on record the copy of the judgment dated 07.06.2018. Counsel further submits that a false case had been registered as the complainant wanted a share in the property and was picking up quarrels demanding a share and the injury which was reflected in the MLR was self caused and it was a fit case where the extraordinary power should be exercised to quash the complaint and the summoning order.

It is relevant to mention here that notice in this case had been issued in July 2016, service had been effected on the complainant in October 2016 and they had sought time to file reply and though the matter was adjourned 7 – 8 times but the reply was not filed and ultimately in April 2018 they were given three weeks' time to file the reply. The reply was still not filed till May 2018 and the right to file the reply was closed.

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The submission on behalf of respondent no.2 is that in the complaint which was filed, there are allegations under Section 406, 498-A IPC and threat given to her which is a continuing offence and those allegations were not included in the complaint made earlier and the Court had rightly summoned the accused.

The State counsel informs that FIR No. 22 had been lodged by the complainant in the Women Cell on 25.04.2015 and challan had been presented against the husband and the mother-in-law and the trial is on.

The facts which have been narrated clearly shows concealment on the part of the complainant. The complainant had got FIR No. 166 registered on 04.09.2014 relating to an incident stated to have occurred on 03.09.2014. Three persons were named who were challaned and the trial ended in acquittal. Without disclosing that a complaint had been made in Haryana, the complainant went to Patiala and filed a complaint in the Court of CJM, Patiala, raising the same allegations regarding the incident which occurred on 03.09.2014. She did not reveal that she had already lodged an FIR relating to that incident. She also introduced some other allegations with respect to demand of dowry and cruelty. Three months later she got an FIR registered with Women Cell wherein allegations were levelled against the family members under Section 406, 498-A IPC. There also she did not reveal that she had already filed a complaint in the Court. Admittedly, the challan had been presented in FIR No.22 and the trial is on as cognizance was taken by the Court. In the light of the above, it is a fit case where the complaint and the summoning order should be quashed as it is a case of concealment on the part of the complainant. Further with respect to

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allegations of the incident of 03.09.2014, the accused were challaned and were tried and the trial had ended in acquittal and they cannot be asked to face trial on the same allegations. Similarly, there can be no two trials with respect to the allegations of cruelty and misappropriation of dowry articles. The Court had taken cognizance and the trial is on, therefore, it is a fit case where the extra ordinary powers under Section 482 Cr.P.C. should be exercised. The complaint and the summoning order are quashed.

The petition is allowed.

12.10.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No