

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

**Crl. Misc. No. M-14927 of 2013**

**Date of decision : 17.05.2018**

**Narinder Kaur & Ors.**

**..... Petitioners**

**versus**

**Manjit Kaur**

**... Respondent**

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

**Present:- Mr. Munish Gupta, Advocate  
for the petitioners.**

**Mr. Ayush Gupta, Advocate  
for the respondent.**

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**ANITA CHAUDHRY, J.**

The petitioners have approached this Court seeking quashing of criminal complaint(Annexure P-13) filed by respondent and the summoning order dated 08.02.2013(Annexure P-14).

The respondent Manjit Kaur was married to Baljinder Singh on 11.03.2007 and a daughter was born on 10.04.2008. Petitioner No.1 Narinder Kaur is the sister of Baljinder Singh while petitioner No.2 Baldev Singh is brother of father of Baljinder Singh and petitioner No.3 Baljit Singh is elder brother-in-law of respondent.

Respondent filed a complaint arraigning her husband, parents in law and the present petitioners. It was alleged that sufficient dowry was given in the marriage. A list, Annexure A was appended therewith detailing the dowry handed over to the husband, parents in law and petitioners No.1 and 3. It was averred that the accused were not satisfied with the dowry

given in the marriage and she was maltreated and harassed by them and was not allowed to call her parents. Certain instances were referred in the complaint where she was maltreated by the accused No.1 to 4 in connivance with each other. Matter was taken up before the Ramgarhia Central Board, where the husband tendered apology. Later, a complaint was given to the police by the parents of respondent, but the accused managed to get her statement recorded in their favour and took her to the matrimonial home. The complainant further referred to an incident dated 03.08.2008 when her father and brother had come to meet her and a scuffle took place between accused No.2 and 3 and parents of the complainant. It was alleged that they were insulted. When her father and brother were returning, accused Baldev Singh and Baljit Singh (petitioners No.2 and 3) and struck their motor cycle into the scooter of father of respondent and inflicted injuries to father and brother of complainant. They were saved by passer-bys and taken to Civil Hospital, Phillaur and remained admitted for fourteen days and discharged on 14.08.2008. It was further alleged that the petition under Section 13 of Hindu Marriage Act was filed by her and it was decreed ex-parte. The complainant and her parents requested the accused to return her istridhan, but they refused to do so and the complaint was filed in the Court.

Preliminary evidence was led. The complainant herself stepped in the witness box as CW-1, Hari Singh and the complainant's father were examined.

On analyzing the evidence on record, the trial Court summoned all the accused under Section 323 IPC. The husband, parents-in-law and petitioners Narinder Kaur and Baldev Singh were summoned under Sections

406, 498-A read with Section 148 and 149 IPC, whereas petitioner Narinder Kaur was summoned under Section 342 IPC.

Quashing was sought, inter alia, on the ground that initially on 07.06.2008 a complaint(Annexure P-1) was made by the father of the complainant to the police and during enquiry, the complainant had given an affidavit dated 10.06.2008 (Annexure P-2), wherein she had mentioned that she had cordial relations with her in-laws and her parents were interfering in married life and the police submitted the report dated 11.06.2008 (Annexure P-3) and filed the complaint. According to him, the complainant also filed complaint dated 07.08.2008 (Annexure P-5) against her parents and also furnished affidavit (Annexure P-6) wherein he denied the news published in the newspaper regarding her harassment and maltreatment. He had further submitted that a compromise took place between the parties on 27.08.2008, but later the complainant for no rhyme and reasons left the matrimonial home. Disturbed with the situation, the husband filed a petition under Section 9 of HMA on 21.11.2008, which was disposed of by the Court on 24.04.2010 as the wife made a statement refusing to accompany the husband. In the meantime, she filed a petition under Section 13 HMA on 22.09.2008, which was allowed ex-parte on 11.10.2010. It was pleaded that a compromise was effected between the parties on 27.08.2008 and the earlier allegations were condoned. The complainant started living at her parental home and filed the divorce petition. It was pleaded that without getting her istridhan back, she would not have filed the divorce petition. According to him, there were no specific allegations against the petitioners, who were relatives of husband and were living separately and had been

implicated with malafide intention. He has further submitted that the complaint which was filed later at a place which had no jurisdiction was an abuse of process of law and was not sustainable and the same was liable to be quashed along with impugned summoning order.

In the reply filed by respondent, it was averred that the petitioners had concealed facts and there were specific allegations against the petitioners, who were instrumental in harassing the complainant and had misappropriated her dowry articles. It was averred that her signatures were obtained by misrepresentation on affidavits. It was pleaded that on account of cruelty meted upon her, she did not want to live with the husband. It was further averred that petitioners No.2 and 3 had assaulted the father and brother of complainant who suffered injuries and both of them remained in hospital for two weeks. It was averred that the trial Court had appreciated the evidence and had rightly summoned the petitioners. It was also pleaded that the petitioners have straightway come to this Court without availing the remedy before the Sessions Court and the petition was not maintainable.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

In support of the submissions and the averments made above, learned counsel for the petitioners has relied upon **Manish Ratan & Ors. Vs. State of MP 2007(1) RCR(Criminal) 513, Joseph Salvaraj Vs. State of Gujarat & Ors. 2011 AIR (SC) 2258, Geeta Mehrotra & Anr. Vs. State of UP & Anr. 2013 AIR(SC)(Crl.) 21, Sundar Babu & Ors. Vs. State of Tamil Nadu 2009(2) RCR(Crl.) 606, Swapnil & Ors. Vs. State of Madhya Pradesh, 2014(3) RCR(Crl.) 99, Gurpal Chand Kataria @**

**Gurpal Vs. Pawan Kumari 2014(14) RCR(Crl.) 332, Sanjiv Kumar Vs. State of Haryana & Anr. 2012(3) RCR(Crl.) 87 and Ramesh & Ors. Vs. State of Tamil Nadu, 2005(2) RCR(Crl.) 67.**

There are specific allegations against petitioners No.2 and 3. The complainant has specifically named them as they along with others are accused of inflicting injuries to her father and brother. The plea raised was that the alleged occurrence was of 03.08.2008 and compromise was effected on 27.08.2008 as such the complaint had no occasion to file the complaint relating to the previous incident. The argument lacks merit. The complainant has mentioned in the complaint that her signatures were obtained on affidavits by misrepresentation. It is for the trial Court to adjudicate whether the compromise was voluntary or was by misrepresentation. At this stage, the complaint cannot be quashed against petitioners No.2 and 3. The injured remained in hospital for over two weeks. The mode and manner in which the injuries were inflicted is yet to be ascertained. The pleas regarding non-entrustment of dowry articles etc. by petitioners No.2 and 3 are disputed questions which shall be considered by the trial Court. They are at liberty to raise the pleas before the trial Court at the relevant time, which shall be decided by the Court without being influenced from any observations made herein.

Coming to the case of petitioner No.1, she is the unmarried sister-in-law of the complainant. Her case is distinguishable from other petitioners. She was summoned under Sections 406, 498-A, 323 and 342 IPC. It was claimed that a briefcase containing eleven suits were entrusted to her. It cannot be believed that an unmarried sister-in-law would be

entrusted with the said articles and the same remained with her till the complainant left the matrimonial home in 2008. The other allegations against her are usual bickerings. The allegations are general in nature, sweeping, omnibus and exaggerated. No specific date and time of the incident has been mentioned. It was not mentioned when petitioner No.1 snatched Rs.20,000/- from the complainant. It cannot be believed that a young girl could restrain two persons and did not allow them to come out of the house. Except that, no role had been assigned to petitioner No.1 in the occurrence dated 03.08.2008. It appears that the allegations against petitioner No.1 had been made out of frustration as the complainant failed to maintain her matrimonial ties. In catena of judgments, the Courts have viewed the seriousness of the implication and over-implication of the relatives of the husband by exaggerating facts when there is a matrimonial discord. Reliance can be placed on **Geeta Mehrotra & Anr. Vs. State of U.P. & Anr. 2012(4) RCR(Crl.)**.

In the case of **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)**, the Hon'ble Apex Court had observed that a tendency had developed for roping all the relations in dowry cases and if it was not discouraged, it was likely to affect the case of the prosecution even against the real culprits.

Similarly, in the case of **Harjinder Kaur & Ors. Vs. State of Punjab, 2004(4) RCR (Criminal) 332**, a criminal complaint was filed under Sections 498-A and 406 IPC against the husband, his parents and 5 sisters. The proceedings qua sisters were quashed as the allegations against the sisters were found to be vague and exaggerated and made to rope in each

and every relation of the husband. In the considered opinion of this Court, the allegations made in the complaint, so far as the petitioner No.1 is concerned, are absurd and improbable and warrants interference to meet the ends of justice and prevent the abuse of process of the Court.

The plea raised by the respondent about non-maintainability of the petition before this Court, is not sustainable. In the case of **State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC)**, the Hon'ble Supreme Court had observed that where the proceeding is instituted with an ulterior motive or where the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint. As noticed above, there are general sweeping allegations against petitioner No.1 and appears to have been made just to widen the net.

In view of the discussion made above, the instant petition is partly allowed. The impugned complaint and subsequent proceedings taken therein against petitioner No.1 are quashed. The petition as against petitioners No.2 and 3 is dismissed.

Whatever has been said hereinabove is without prejudice to the case of the parties on merits.

**17.05.2018**  
**Jiten**

**(ANITA CHAUDHRY)**  
**JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No