

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

Crl. Misc. No. M-18780 of 2017

Date of decision : 13.11.2018

Ramkaran

..... Petitioner

versus

State of Haryana & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Manoj Kaushik, Advocate
for the petitioner.**

Mr. Arun Kumar, AAG Haryana.

**Mr. Akash Vashisth, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioner is seeking quashing of FIR No. 10 dated 31.01.2017, registered under Sections 406, 498-A and 506 IPC at Police Station Sadar Kaithal and the consequent proceedings taken therein.

The FIR was registered on the basis of complaint made by respondent No.2, against the husband, brother-in-law (petitioner), mother-in-law, sisters-in-law and aunt of the husband. It was alleged that her marriage was solemnized with Rammehar on 06.02.2013 and huge money was spent. The marriage of petitioner with Priyanka, younger sister of respondent No.2 was also solemnized but she was not sent to the matrimonial home as she was a minor. After sometime, the in-laws started harassing her for more dowry and demand of a car was raised. It was stated that the car be given at the time of *vidai* ceremony of the younger sister. A

son was born, but the accused were not happy with the gifts given at the time of ceremony and gold chain was demanded for sisters-in-law and aunt. The demand was not fulfilled and she was beaten. It was alleged that a demand of Rs.10 lakh was raised by accused through Priyanka as the petitioner had to join the government job. A sum of Rs.6 lakh were arranged and given to the accused. The accused adopted delay tactics for bringing Priyanka to her matrimonial home on completion of 18 years age and demanded a big car and 25 tolas of gold in lieu thereof. Respondent No.2 was turned out of the matrimonial home. A divorce petition was filed by the petitioner seeking dissolution of marriage. A Panchayat was also convened but the accused criminally intimidated the complainant.

The case was registered and investigated. Final report was filed against the present petitioner, husband and mother-in-law. Rest of them were found innocent.

Quashing was sought, inter alia, on the ground that the petitioner was residing at Delhi since 2012 and completed his M.Sc. in 2014 and had not interfered in the married life of the couple, who were staying at Kaithal and had no concern with the alleged demand of car. It was pleaded that in 2014-2015 he had completed one year orientation course in Nuclear Science and Engineering at Indira Gandhi Centre for Atomic Research at Kalpakkam and got job there and was working since August, 2015. It was pleaded that there was no specific allegations of entrustment and beatings, so far as petitioner was concerned and he was roped in only because he had filed divorce petition against Priyanka, younger sister of respondent No.2 on 17.09.2016 and the FIR was lodged on 31.01.2017 on receipt of notice of

divorce petition and general and vague allegations were levelled against him.

In the reply filed on behalf of State, it was averred that during investigation the complicity of the petitioner was found. It was averred that there were specific allegations against the petitioner and final report was filed against him in the Court and the accused have been charge-sheeted and prosecution evidence has started.

No reply was filed by the complainant despite last opportunity. The right to file reply was later closed.

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

The question that arises is whether the FIR, the subsequent report under Section 173 Cr.P.C. and charge-sheet can be quashed in exercise of the powers under Section 482 Cr.P.C.

The petitioner is the brother-in-law of the complainant. In catena of judgments, the Courts have viewed the seriousness of the implication and over-implication of the relations of the husband by exaggerating the allegations in the cases of matrimonial discord. It is relevant to refer to some of them.

In the case of **Geeta Mehrotra & Anr. Vs. State of U.P. & Anr. 2012(4) RCR(Crl.)**, the Hon'ble Apex Court quashed the FIR against the sister and brother of the husband by observing as under:-

“...It is the well settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of the

process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives or the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

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.

In **Anita & Ors. Vs. State of Punjab, 2003(4) RCR (Criminal) 313**, when a first information report was lodged by the wife under Sections 498-A and 406 of the Indian Penal Code against the entire family members of the husband, this Court exercising its powers under Section 482 Cr.P.C. had quashed the FIR and had observed that there was a tendency to involve all the relatives of the husband when the relations between the husband and the wife become strained.

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 **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR (Crl.) 527**, the Hon'ble Apex Court observed that the fact that Section 498-A IPC is a cognizable and non-bailable offence had lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

In the case of **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 2010 AIR (SC) 3363** the Hon'ble Apex Court observed that a serious relook of the entire provisions of Section 498-A IPC was warranted by the legislation. It was observed that exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a very large number of cases. In that case the Hon'ble Apex Court quashed the criminal proceedings against brother and sister of husband, living separately.

The petitioner had placed on record documents Annexure P-2 (collectively) to show that he had completed his M.Sc. from Kirori Mal College, Delhi in the year 2014. The documents further go to show that during the year 2014-15 he had completed one year Orientation Program at Kalpakkam(Tamil Nadu) and thereafter he got job there. A perusal of the FIR would reveal that there are no specific allegations of entrustment against the petitioner. General sweeping allegations have been made that the accused demanded a car from the complainant. There was no specific

instance when the demand was raised by the petitioner or she was maltreated on account thereof. No date or time was mentioned when she was criminally intimidated and by whom. It was not specifically mentioned as to when the demand of Rs.10 lakh and gold was raised and by whom. Nothing was mentioned that to whom the amount of Rs.6 lakh was handed over by the parents of the complainant.

The marriage of respondent No.2 was solemnized with the brother of the petitioner on 06.02.2013 and the FIR was lodged on 31.01.2017. It was not shown that during the period interregnum any complaint was made by her about the maltreatment and demand of dowry. The record reveals that in September, 2016 the petitioner had filed divorce petition seeking dissolution of marriage with the younger sister of the complainant and after that the complaint was given and FIR was lodged in January, 2017. Bald and vague allegation had been made against the petitioner out of frustration just to widen the net. It cannot be forgotten that there is a tendency to rope in the relatives of the husband in matrimonial dispute. In the considered opinion of this Court, by mere conjectures and implications, the petitioner cannot be said to be involved in the offence. He cannot be asked to suffer the agony of trial which will be lame and protracted.

In the case of **Divya @ Babli & Ors. Vs. State of Haryana, 2006(4) RCR(Crl.) 322**, this Court quashed the proceedings qua sisters by observing that there is a tendency for roping in all the relations in dowry cases. It was further held that there is no hard and fast rule that the proceedings cannot be quashed after the filing of the challan or after

framing of the charge.

Furthermore, 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/ FIR.

In the considered opinion of this Court, the allegations made in the complaint, so far as the petitioner is concerned, are absurd and improbable and warrants interference to meet the ends of justice and prevent the abuse of process of the Court.

In view of the discussion made above, the instant petition is allowed. The impugned FIR and the consequent proceedings taken therein, against the petitioner alone are quashed.

Whatever has been said hereinabove is without prejudice to the case against the remaining accused.

13.11.2018
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(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No