

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

**CRM-M-28036-2010 (O&M)
Date of decision: 08.08.2018**

Amanjot Singh **Petitioner**
versus

State of Punjab and another ... **Respondents**

with

CRM-M-29631-2010 (O&M)

Lakhbir Singh Randhawa and another **Petitioners**

versus

State of Punjab and another ... **Respondents**

CORAM:- HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. Navkiran Singh, Advocate
for the petitioner in CRM-M-28036-2010.

Mr. Jasdeep Singh Gill, Advocate
for the petitioner in CRM-M-29631-2010.

Ms. Jaspreet Kaur, AAG, Punjab,
counsel for respondent no.1-State.

Mr. Shish Pal Laler, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

These two petitions arise out of FIR No.203 dated 06.08.2005, registered under Sections 406, 498-A, 354, 509, 420, 120-B IPC at Police Station SAS Nagar (Mohali), filed by complainant Rupinder Kaur against her husband - Gurjot Singh, Dever – Amanjot and parents-in-law – Lakhbir Singh Randhawa and Sukhwant Kaur.

These petitions have been filed seeking quashing of FIR. They are on behalf of brother-in-law Amanjot and the parents-in-law. The basic facts which are not in dispute are as under:-

Gurjot Singh an NRI living in Canada got married to Rupinder Kaur on 27.03.2005. The husband left for Canada on 29.04.2005. Before leaving, he took the complainant for her medical examination for immigration purposes at a clinic in Amritsar. A complaint was lodged on 18.07.2005, which led to the registration of the FIR on 06.08.2005. The complainant is the daughter of a retired DSP. The complainant initiated divorce proceeding on 07.09.2005, just a month after the FIR was lodged. An *ex parte* decree of divorce was passed in October 2006. The decree was not challenged. Rupinder Kaur remarried in February 2009 and thereafter left for Australia. Concededly she is a permanent resident of Australia.

Rupinder Kaur in her complaint disclosed that she had done her M.Sc. Honours in Micro Biology and was doing her M.Sc. Her brother was a Canadian citizen. She had claimed that her case for immigration to Canada had been sponsored by her brother a year ago. She stated that Gurjot was a Canadian immigrant and was residing in Toronto and their alliance was fixed through a matrimonial advertisement and there was no demand of dowry at the time of settlement of marriage. The complainant had specifically mentioned that Gurjot and his parents wanted a simple marriage and they were only considering the girl. The complainant had mentioned that there was a promise that after the marriage she would be sponsored for immigration to Canada by Gurjot. The complainant had given the details of the articles which were given prior to the marriage, which she later on refers to as dowry items. It was claimed that her mother-in-law had also given her a gold set and she had handed over the Shagun to the tune of Rs.20,000/- to the mother-in-law with the understanding that it would be returned for her personal use after she reached the in-law's house.

It was pleaded that the reception ceremony took place on 28.03.2005 and Shagun of Rs.15,000/- was handed over to the father-in-law for safe custody. The complainant alleged that before the reception ceremony was over, her in-laws and the husband called her parents and told them that they had not given sufficient dowry or luxurious items or a car and it had lowered their prestige. It was claimed that her father-in-law took Rs. 5 lacs in lieu of the price of the car and were still not satisfied and her husband, the in-laws and Amanjot demanded Rs. 20 lacs before the registration of the marriage and before Gurjot left for Canada. It was pleaded that Gurjot postponed his departure from 19th April 2005 to 29th April 2005 in the hope that the parents would pay the amount. It was pleaded that the marriage was registered on 20.04.2005. The complainant alleged that she was maltreated, taunted and humiliated. The complainant admitted that her husband accompanied her medical examination for immigration purpose on 25.04.2005 and she was found fit for immigration and her name was shown as Rupinder Kaur Randhawa and that was on the insistence of her husband but she was insisting that her name should be written according to the passport on which Gurjot had said that the name in the passport would also have to be changed.

The complainant further alleged that she, her husband, her father-in-law, mother-in-law and brother-in-law all went to Mohali and stayed at her parent's house and there too a demand of Rs.20 lacs was made. It was claimed that the next morning her father-in-law, brother-in-law had left for Dharowali and her husband and her father left for Delhi Airport to see off for Gurjot in the intervening night of 28/29.04.2005. It was claimed that after reaching Canada, Gurjot was received by her brother and Gurjot

stayed with him for two days and during this period he dispatched the immigration papers and also asked for wedding photographs which were sent by speed post. She stated that she had got her name changed in the passport showing herself as the wife of Gurjot Singh Randhawa.

The main allegations are that a demand of Rs. 20 lacs was made and she was ill-treated and Gurjot later changed the demand from Rs. 20 lacs to a house in Canada. It was claimed that she was thrown out of the house on 30.04.2005. The allegations against Amanjot are that he pinched her and pushed her towards the car and passed indecent remarks. The complainant had also mentioned that she had conceived but on account of depression there was a miscarriage. The complainant had also mentioned that she was under great mental agony and she was forced to think of suicide. She claimed that they had been cheated.

I have heard the counsel of both the sides.

The submission on behalf of the petitioners is that the couple stayed together only for a month and there was no complaint even till the husband went abroad. The counsel for the petitioner contends that there is an admission that the brother of the complainant had applied for immigration of the complainant and there could not be two applications at the same time and the dispute arose only because of the delay in finalization of immigration proceedings. It was urged that as per the allegations in the FIR, there was no demand prior to the marriage and all was well even when the husband went abroad and he was seen off at the airport by the father-in-law. It was urged that the petitioner, Amanjot was a student of M.Tech. and was studying in Amritsar. It was urged that the complainant was left at her parent's house by the in-laws and their younger son and if the relationship were sour and there

were demands, they would not have left the girl at her parent's house. It was contended that the whole family went and stayed with the parents of the complainant and these are admissions in the FIR, which goes to show that all was well. It was urged that the husband had stayed in India for 30 days and the couple had gone for their honeymoon to Kullu Manali. The counsel further contends that the girl had suffered a miscarriage and she admits to a accidental miscarriage. The counsel further contends that the case of the complainant for immigration was rejected in 2006 and the husband could not have filed the second application when the first application was pending. It was contended that the complainant filed for divorce within six months of the marriage and a *ex parte* decree was passed and the girl had later got married and has two children and is settled in Australia. It was contended that the continuance of the proceedings would be an abuse of the process of the law and the FIR should be quashed and the Court would not be justified in embarking upon any inquiry as to the reliability or genuineness of the allegations against the petitioners in view of the contradictions in the FIR.

On the other hand, it was submitted that there are specific allegations and articles were handed over to the brother-in-law and the father-in-law and the police had investigated the case and had filed the challan. It was also contended that the husband was declared proclaimed offender on 23.09.2010. It was conceded that the order declaring the husband as proclaimed offender was passed after these petitions were filed. It was urged that there are allegations of dowry demand and this was not an extraordinary case and power for quashing the FIR are to be exercised sparingly. Reliance was placed upon ***Amanullah and another Vs. State of Bihar and others (2016) 6 SCC 699.***

The State counsel had also urged that it should be left to the trial Court to adjudicate whether it was a case of dowry harassment and demand.

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

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(CrI.)**, 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 CrI. Misc. No. M-30827 of 2016 5 (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 (CrI.) 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.

Section 482 Cr.P.C. is clear and powers can be exercised by the Court to prevent the abuse of the process of the Court and to secure the ends of justice and there are no hard and fast rules that can be laid down. There is no straight jacket formula and facts of each case have to be examined. The facts are not in dispute. The marriage took place on 27.03.2005. The complainant admits to the fact that there was no demand of dowry before marriage. It is also not in dispute that the husband was a Canadian immigrant. The brother of the complainant was also abroad. The husband stayed in India for a month before he left on 29.04.2005. It is not disputed that the husband had taken his wife for her medical test for immigration purposes. It is not disputed that the couple stayed together for the entire month and there was no complaint. The father of the complainant had gone to see off his son-in-law at the airport. Before that, the in-laws and the husband had come to stay with the complainant's parents. It is not disputed that Amanjot was a student and was studying in Amritsar.

In the light of this background it is difficult to accept that demands would be raised before the reception ceremony ended or that the harassment and demand of Rs.20 lacs was made before the departure of

Gurjot. The petitioners had explained that Gurjot had postponed his departure since he wanted to be with his wife for the medical examination and the complainant had admitted this fact that the husband had accompanied her for her medical. Therefore, allegations levelled that the departure was postponed as Gurjot was waiting for the amount demanded by them are false. The marriage was registered on 20.04.2005. The husband insisted on giving his surname because she was to come abroad. It shows that all was fine till then. The family had been visiting each others' houses. The boy's family stayed with the girl's parent's. It is difficult to accept that there was demand of Rs.20 lacs. If relation became bitter the complainant's father would not have travelled to see off his son-in-law at the airport. The complainant admits that her brother had already submitted immigration papers and those were rejected the following year. It appears that differences arose on account of this and false allegations were levelled.

The complainant gave a colored version and made up allegations which on the face of it appear to be baseless. The complainant had given exaggerated distorted account of incident. In the considered opinion of this Court, the allegation in the FIR are absurd and improbable and warrant interference to meet the ends of justice and prevent the abuse of the process of the Court.

In view of the discussion made above, both the petitions are allowed and the FIR and consequent proceedings taken therein are quashed.

08.08.2018

**(ANITA CHAUDHRY)
JUDGE**

Sunil

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No