

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

**Crl. Misc. No. M-25193 of 2015 (O&M)
Date of decision : 19.01.2018**

Sangeeta

..... Petitioner

versus

State of Haryana and Ors.

... Respondents

CORAM:- HON'BLE MS. JUSTICE ANITA CHAUDHRY

**Present: Mr. K.C. Rajput, Advocate
for the petitioner.**

Mr. Arun Kumar, AAG Haryana.

**Mr. Vikash Kumar, Advocate
for respondents No.2 to 6.**

ANITA CHAUDHRY, J(ORAL)

The petitioner is challenging the order dated 11.05.2015 passed by the Additional Sessions Judge, Sonapat by virtue of which respondents No.2 to 6 have been discharged.

FIR No. 91 dated 14.04.2014 was registered under Sections 496, 498-A and 506 read with Section 34 IPC at Police Station Kundli on the basis of complaint made by the petitioner against respondents No.2 to 6, who is husband, parents-in-law, brother-in-law and his wife. It was mentioned that the marriage was solemnized with Narender on 07.12.2004 and sufficient dowry was given by her parents. The accused were not satisfied and they started taunting and demanded a car. The demand was not fulfilled and she was given beatings by husband Narender, mother-in-law Dhanpati, brother-in-law Ghansham and his wife Anju. The matter was

reported to the Panchayat, but yielded no fruits. She gave birth to a boy and girl and her parents-in-law were given golden chain and clothes on the occasion. The accused stuck to their demand of car and threatened to kill her if the demand was not fulfilled. Fed up with the harassment given by the accused, she returned to her parent's home.

The case was registered and investigated. Final report was laid for trial.

The trial Court framed charges against respondents No.2 to 6 under Sections 406 and 498-A IPC. Dis-satisfied with the same, respondents No.2 to 6 preferred a revision petition. The Revisional Court below vide order dated 01.05.2015 allowed the same and discharged them.

Aggrieved therewith, the complainant-petitioner has filed the instant petition.

Reply was filed by the State and has also questioned the legality of the order dated 01.05.2015

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

Learned counsel for the petitioner had submitted that the revisional Court had exceeded its jurisdiction while discharging the accused. According to him, at the time of consideration on charge, the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the offence and the Court is not expected to go deep into the probative value of the material on record. He further urged that the trial Court has rightly appreciated the material on record and had charge-sheeted respondents No.2

to 6, but the revisional Court had erred in discharging the accused and returned the findings as if it was deciding the case finally on merits.

Learned counsel for respondents No.2 to 6 had supported the order passed by the revisional Court. According to him, the allegations in the FIR do not constitute any offence and the error committed by trial Court was rectified by the revisional Court. He had placed reliance upon **Harsh Vardhan Arora Vs. Smt. Kavita Arora, 2002 Matrimonial Law Reporter 528, Jaswant Singh @ Josh Vs. Hakam Singh, C.C. Cases (P&H) 189 and Chamel Singh & Anr. Vs. State of Haryana & Anr. 2016 (5) RCR(Crl.) 495.**

The Court while considering the question of framing the charges under Section 227 of the Code of Criminal Procedure has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused is made out. The test to determine prima facie case would depend upon the facts of each case. The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case by applying its mind judicially. The Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value, makes out a case for framing of charge or not. If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.

The complaint was made after more than nine years of the marriage. The facts detailed in the complaint have been noticed above. It is

alleged that dowry articles were given in the marriage. The complaint does not disclose to whom the dowry articles were entrusted. In the complaint she mentioned that she would provide the list of dowry articles later. The same have been annexed with this petition as Annexure A-11, wherein the details of household articles, clothes and gold items given to the husband and parents-in-law was mentioned. The list was not provided to the police at the time of registration of FIR. It cannot be believed that for all these years the articles remained with the accused. The gifts given in the marriage cannot be equated with dowry articles. Nothing has been shown that during all these years she had made any complaint regarding demand of car or harassment and misappropriation of dowry articles. No doubt, it is mentioned in the complaint that Panchayats were convened on many occasion, but a perusal of final report under Section 173 Cr.P.C. reveals that except the complainant, her father and police officials, no other person was cited as a witness and there is no statement under Section 161 Cr.P.C. The father in his statement under Section 161 Cr.P.C. had not narrated any instance, but had simply stated that he corroborated the statement made by his daughter. He also failed to specifically narrate the sequence of events. A perusal of statement of complainant, it is apparent that not even a single allegation had been levelled against father-in-law and only omnibus allegations had been made against the accused in respect of demand of dowry, harassment and beatings given to her during the period she stayed in the matrimonial home. No specific date, month or year had been specified when these incidents had taken place. It cannot be ignored that every member of the in-laws family had been implicated on account of strained relation and only after when the husband had filed a divorce petition on

02.01.2014. The allegations made are vague and general and if taken to be true do not make out any offence under Sections 406 and 498-A IPC against the accused and the revisional Court had rightly discharged them.

There is no merit in the petition. Dismissed.

January 19, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No