

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

Crl. Misc. No. M-25853 of 2014

Date of decision : 12.09.2018

Amarjit Singh

..... Petitioner

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Vivek Goel, Advocate
for the petitioner.**

Ms. Jaspreet Kaur, AAG Punjab.

**Ms. Pooja, Advocate for
Mr. Mandeep Kaushik, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioner is seeking quashing of FIR No. 4 dated 07.05.2013, registered under Sections 406 and 498-A IPC at Police Station NRI, Ludhiana and the consequent proceedings taken therein including the final report filed.

The FIR was registered on the basis of complaint made by respondent No.2, against the husband, mother-in-law, sister-in-law and brother-in-law of her daughter. It was alleged that marriage of her daughter was solemnized with Paramjit Singh on 21.02.2002 and huge money was spent. After sometime, the in-laws started harassing her daughter for more dowry and she was beaten and demand of Mercedes car was raised. After two months of the marriage, Paramjit returned to Canada and her daughter

was not allowed to use her istridhan. Tanveer their son was born on 30.12.2002. The daughter of the complainant went to Canada. The complainant bore the expenses of Rs.2 Lakh and also paid Rs.3 Lakh to the accused. On reaching Canada her daughter learnt that Paramjit Singh was already married to Karamjit Kaur on 06.02.1999 and this fact was concealed and they were cheated regarding their financial status as Paramjit Singh was merely a driver. In December, 2005 the mother-in-law had left Tanveer in India but her daughter took him back in July, 2006. A panchayat was convened and the accused reiterated their demand of Mercedes car. In April, 2007 the complainant and her husband went to Canada and there Kulwant Singh, Paramjit Singh, Surjit Kaur and Charanjit Kaur begged pardon and assured to keep her daughter nicely. The situation did not change. Her daughter was harassed for money and a car. The complainant spent Rs.5 Lakh for purchasing a car for her daughter. Her daughter was turned out of the house in Canada and her jewellery and belongings were retained. Paramjit Singh, in the meanwhile, transferred his property in the name of his sister Charanjit Kaur. The complainant further alleged in the complaint that on 27.11.2010 her daughter and maternal grandson come to India. In January, 2011 a Panchayat was convened where the accused raised the demand of car and few days thereafter Paramjit Singh along with the petitioner came to their house in Ludhiana along with old car of her daughter and asked them to exchange it with new Mercedes car and raised a demand of 50,000/- dollars and threatened her. Paramjit Singh gave beatings to her daughter in connivance with other accused and her istridhan was misappropriated.

The complaint was investigated and a case under Sections 406 and 498-A IPC was registered. Accused Paramjit Singh and Surjit Kaur were declared proclaimed offender and it had come out during investigation that they were abroad. No dowry articles were recovered from the petitioner. He is elder brother-in-law (Jeth) and challan was filed only against him.

Quashing was sought, inter alia, on the ground that the marriage was more than 15 years old and sometimes thereafter, the son-in-law and daughter of the complainant had gone abroad and had settled there and it cannot be accepted that she had left her istridhan in India and the petitioner cannot be said to have benefitted from the demand of Mercedes car by the husband, who was abroad. It was pleaded that the couple had taken a divorce in 2014 and the petitioner has been implicated with a malafide intention just to widen the net being the brother of the husband with whom the daughter of the complainant failed to maintain matrimonial ties. It was averred that the petitioner was married much prior to the marriage of daughter of the complainant and had not interfered in the matrimonial life of the couple and no entrustment was alleged against the petitioner nor any overt act was attributed to him and only 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 as he along with co-accused demanded Mercedes car from the daughter of the complainant and maltreated her. It was averred that there were specific allegations against the petitioner and final report has been filed against him in the Court.

The complainant in the reply made assertion that fraud was

played as the factum of previous marriage of Paramajit Singh was concealed and the petitioner was instrumental in causing harassment to her daughter in India before she left for Canada and he had misappropriated the dowry articles of her daughter.

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

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

Petitioner is the married brother-in-law of the daughter 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.

It is relevant to mention here that the marriage of daughter of complainant with the brother of petitioner was solemnized in 2002. As per reply filed by the State the daughter of the complainant had left for Canada after few months of the marriage and it has come on record that the couple had been staying at Canada and during her stay at India, she was harassed and maltreated and the name of the petitioner figure in the FIR wherein it was alleged that in the year 2010 he along with the husband of the daughter of the complainant had come to Ludhiana and repeated the demand of a Mercedes car. It is abundantly clear from a perusal of FIR that except this, there are no specific allegations against the petitioner. General sweeping allegations have been made that the petitioner along with the husband had demanded a Mercedes car from the daughter of the complainant. During her stay in India, neither the complainant nor her daughter had made any

complaint about the alleged harassment and demand of car. The FIR was lodged in May 2013 and during all these years no complaint whatsoever was made either by the complainant or her daughter about harassment for dowry, demand of car or misappropriation of her dowry articles or that the petitioner had concealed the previous marriage. Though, the couple had been litigating at Canada where they are now settled, but no complaint was ever made in India. All of a sudden in 2013, the complainant lodged the FIR with pandora of allegations against the in-laws family. Paramjit Singh, the husband and Surjit Kaur, mother-in-law were declared proclaimed offenders as they are stated to be abroad and the petitioner had been booked and challaned in the FIR for the obvious reason that he alone was in India. Divorce decree had been passed by the Supreme Court of British Columbia on 04.07.2014. The FIR itself reveals that the complainant had been annoyed with son-in-law as he had transferred his share in the property in favour of his sister, ignoring her daughter and maternal grandson. 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.

12.09.2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No