

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

Crl. Misc. No. M-26111 of 2017

Date of decision : 31.10.2018

Hardeep Singh & Anr.

..... Petitioners

versus

Raminder Kaur

... Respondent

with

Crl. Misc. No. M-27161 of 2017

Vachhitar Singh & Anr.

..... Petitioners

versus

Raminder Kaur

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Rajinder Goyal, Advocate
for the petitioners.**

**Mr. M.K. Dogra, Advocate
for the respondent.**

ANITA CHAUDHRY, J.

Two petitions have been filed against the order dated 15.05.2017 passed by the Judicial Magistrate Ist Class, Ludhiana in complaint case No. 531 dated 19.07.2016 filed by the respondent.

Petitioners Vachhitar Singh and Tarlochan are the parents-in-law of respondent Raminder Kaur while petitioners Hardeep Singh is brother-in-law, Vishali is his wife.

A complaint was filed by respondent against her husband Tanvir Singh and the present petitioners and four other persons under

Sections 294, 307, 323, 324, 406, 452, 494,498-A and 506 read with Section 120-B IPC. It was alleged that her marriage took place on 03.02.2012 and sufficient amount was spent in the marriage and dowry articles were entrusted to the husband and the petitioners. A girl was born out of the wedlock. But they were not happy and she was given beatings. A demand of Rs.10 lakh was raised and Rs.6.5 lakh was paid to the husband and the petitioners. It was averred that the couple remained at Khanna for one and a half year and after that they shifted to Ludhiana. There also, the husband started making demand of Rs.15 lakh which was fulfilled. Some allegations against the husband and his extra marital affair were levelled but they are not being referred to as they are not relevant for adjudication of these petitions. The petitioners have been summoned only Sections 406, 498-A and 506 read with Section 120-B IPC. The allegations primarily against are that the husband used to beat her on the instigation of the petitioners, she was criminally intimidated and her istridhan was misappropriated.

In preliminary evidence, the complainant stepped in the witness box as CW1 and examined her father Surinder Singh and brother Harman Singh as CW2 and CW3 respectively.

The Court below summoned the husband and petitioners under Sections 406, 498-A and 506 read with Section 120-B IPC. The complaint qua accused Nos. 6 to 9 arrayed was dismissed. It was observed that there were no sufficient grounds for proceeding against them.

Dis-satisfied with the same, the aforesaid petitions have been filed which are being disposed of by this common order.

Quashing was sought, inter alia, on the ground that it was a love marriage and no dowry was given. The petitioners were living at Khanna while the couple had shifted to Ludhiana soon after marriage and they had no interference in their life. It was further urged that earlier the respondent filed a complaint with the Tarn Taran Police and on enquiry the allegations were found incorrect and her complaint was filed. By concealing this fact, she had filed the instant complaint in Ludhiana. It was averred that only general allegations are levelled against them and no specific instances were referred and they have been implicated with a malafide intention.

In the reply filed on behalf of complainant, objection regarding maintainability of the petition was raised. It was averred that the petitioners had not approached the Sessions Court challenging the summoning order. On merits, it was pleaded that the petitioners were instrumental in causing harassment to the respondent and there are categoric and specific allegations against them in the complaint. The Court below has rightly summoned them.

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

In the instant case, a perusal of complaint reveals that there were no specific allegations against the petitioners regarding entrustment and maltreatment for dowry. It was own case of the complainant that she had shifted to Ludhiana after one year of the marriage. The allegations in the FIR primarily revolve around the husband regarding demand of cash for making good the losses suffered in business. As is evident from the complaint, the petitioners are resident of Khanna and it cannot be believed

that they were beneficiary to the said demand or that they were interfering in the married life of the couple. The marriage took place in 2012 and the complaint was filed in July, 2016. It was not shown that during her stay in the matrimonial home, she had ever made complaint to the police regarding the beatings by the husband. After shifting to Ludhiana she had not made any complaint regarding misappropriation of her dowry articles either by the husband of the petitioners. Had her *istridhan* been retained or misappropriated, she should have filed a complaint in that regard. But no complaint was filed. Interestingly, she had moved complaint, before the Tarn Taran Police on 03.05.2016, which was filed by the police after enquiry vide report Annexure P-1 and her allegations were found false, rather it was found to be a case of allegations and counter-allegations by the couple of having extra marital affairs. This fact was concealed when the instant complaint was filed. Bald and vague allegation had been made against the petitioners just to widen the net and out of frustration as the respondent failed to maintain her matrimonial ties. It was stated that all the accused threatened her but no specific date, time or the manner in which threat was extended and by whom was mentioned. 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 petitioners cannot be said to be involved for the offence. Discord between the couple has been given the shape of matrimonial dispute.

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. Reliance can be placed on **Geeta Mehrotra & Anr. Vs. State of U.P. & Anr. 2012(4) RCR(Crl.)** and **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 2010 AIR (SC) 3363**. 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.

The plea regarding non-maintainability of instant petition is not sustainable. In **M/s. Pepsi Foods Ltd. v. Special Judicial Magistrate, 1997 (4) RCR(Crl.) 761 (SC)** their Lordships have observed as under :-

".... Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support

thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused."

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, which is the position in the case in hand.

In considered opinion of this Court, the summoning order was passed without application of mind by the Magistrate. The allegations made in the complaint against the petitioners 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, both the petitions are allowed. The impugned complaint and the consequent proceedings taken therein, including summoning order passed therein against the petitioners are quashed.

31.10.2018

J/S

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No