

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-28505-2014
Date of decision: 04.05.2018**

Angrej Singh Sandhu

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajesh Bhateja, Advocate
for the petitioner.

Mr. A. S. Sandhu, Addl. A.G., Punjab.

Mr. Manpreet Singh, Advocate
for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing FIR No. 208 dated 25.07.2014, under Sections 498-A, 406 and 506 of the Indian Penal Code, registered at Police Station Dharamkot, District Moga and all consequential proceedings arising thereunder.

2. In brief, the facts as stated in the FIR are that a marriage was solemnized between Jagandeep Kaur, the daughter of complainant Balbir Singh, with Kuldeep Singh son of the petitioner Angrej Singh Sandhu on 24.04.2011. It is alleged that soon after the marriage, the daughter of the complainant was harassed by Kuldeep Singh (husband) and Chamkaur Singh, sons of Angrej Singh Sandhu, Manjit Kaur wife of Angrej Singh Sandhu, petitioner Angrej Singh Sandhu and Charanjeet Kaur wife of Chamkaur Singh on account of bringing inadequate dowry. It was alleged that in May 2011, a demand was made by all to the daughter of the

complainant, stating therein that Kuldeep Singh is going to Canada and in order to secure a visa for the complainant a sum of ₹15 Lakh should be brought. The complainant made arrangements and after borrowing money, handed over the same to the family of the petitioner. Thereafter, Kuldeep Singh left for Canada in July, 2011 and daughter of the complainant left in June, 2012. A female child, namely Preet Kaur, was born on 23.09.2012. It was alleged that all accused continued to harass the daughter of the complainant and even the custody of the minor child was handed over to the brother of the husband. The matter was investigated and it was recommended that FIR be registered against husband Kuldeep Singh, and father-in-law Angrej Singh Sandhu, the petitioner herein. The other accused mentioned in the FIR were found to be innocent.

3. Mr. Rajesh Bhateja, learned counsel appearing on behalf of petitioner, contends that the FIR registered is not sustainable on account of the fact that no specific allegation has been made in the FIR against the petitioner and all allegations raised therein are general in nature. It is also argued that Jagandeep Kaur, daughter of the complainant, left for Canada along with the petitioner and his wife in the month of June, 2012. On reaching Canada, the petitioner shifted residence from Abbotsford to Edmonton to reside with his daughter, which is at a distance of more than 1000 Kilometres. It is also argued that when the petitioner left the residence of his son and daughter-in-law Jagandeep Kaur to reside with his daughter, the daughter of the complainant called the police in Canada and levelled false allegations against him. The matter was investigated and all allegations were found to be false and the petitioner was declared innocent by the Canadian police. It is argued that the matrimonial dispute between his son

and daughter-in-law arose in Canada and, therefore, this Court would have no jurisdiction to entertain the matter. It is also argued that the investigation itself would show that the police came to the conclusion that only the husband of the daughter of complainant Kuldeep Singh and father-in-law Angrej Singh harassed the complainant Jagandeep Kaur for demand of dowry in Canada.

4. *Per contra*, Mr. Manpreet Singh, learned counsel appearing for respondent No. 2/complainant, submits that the allegations, as set out in the FIR, are true and that the daughter of the complainant had been harassed on account of bringing inadequate dowry. It is also argued that Kuldeep Singh, son of the petitioner and husband of his daughter, had taken away the custody of the minor child Preet Kaur and handed it over to his brother and custody proceedings had been initiated.

5. I have heard learned counsel for the parties and have also perused the pleadings of the case.

6. Admittedly, a marriage took place between Jagandeep Kaur and Kuldeep Singh, daughter of the complainant in the year 2011. After marriage, husband Kuldeep Singh left for Canada in July, 2011 and was followed in June, 2012 by the petitioner, his wife and daughter of the complainant. The FIR does not reveal that there is any specific mention that the petitioner had raised a demand of dowry or that there was any such entrustment of the same to him. A general allegation has been raised against all the accused that there was harassment on account of inadequate dowry and that the accused had demanded a sum of ₹ 15 Lakh in order to send the complainant's daughter to Canada. There is no mention in the said FIR of any gold ornaments etc. having been given to the petitioner. As noticed by

the Investigating Officer, the harassment caused to the daughter of the complainant Jagandeep Kaur for demand of dowry was in Canada.

7. Reply has not been filed to controvert the submissions made in the petition or the statement that a complaint filed by the daughter of the complainant in Canada against the petitioner was found to be false. Even if for the sake of argument, it is taken into account that the petitioner harassed the complainant's daughter for demand of dowry, it was a demand that was raised in Canada, outside the territorial jurisdiction of the Courts at Moga. Therefore, the offence, if any, had been committed in Canada. A similar case came up for hearing before the Supreme Court in ***Harmanpreet Singh Ahluwalia and Others Versus State Of Punjab and Others 2009 (2) RCR (Criminal) 956***, wherein the parties were residing in Canada and FIR was registered at Jalandhar alleging demand of dowry and misappropriation of dowry articles. The proceedings were quashed holding that the Jalandhar Court would have no jurisdiction to entertain the matter.

8. Even otherwise, there is no specific role or injury or demand of dowry or entrustment of dowry articles/*Istridhan* or misappropriation of the same against the petitioner herein. On the same set of allegations, the other accused, mentioned in the FIR, have been found to be innocent. The alleged demand of ₹ 15 Lakh would be against the son of the petitioner who was to take her to Canada and to arrange for her papers. It is apparently clear that the FIR has been registered against the petitioner herein only to harass the family members. Any allegation regarding custody of child is not a dispute with the petitioner herein and pertains to a dispute with Chamkaur Singh, brother of the husband. The Supreme Court in ***Preeti Gupta and another versus State Of Jharkhand And Another (2010) 7 Supreme Court cases***

667 had no hesitation in quashing the Criminal Complaint under Sections 498-A, 406, 341, 323, and 120-B of the IPC read with Sections 3 and 4 of the Dowry Prohibition Act, qua married sister-in-law and unmarried brother-in-law who were residing separately. It was observed as under:-

“18. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent powers should not be exercised to stifle a legitimate prosecution, but the Court's failing to use the power for advancement of justice can also lead to grave injustice.

19. The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

29. Admittedly, Appellant No.1 is a permanent resident of Navasari, Surat, Gujarat and has been living with her husband for more than seven years. Similarly, Appellant No.2 is a permanent resident of Goregaon, Maharashtra. They have never visited the place where the alleged incident had taken place. They had never lived with respondent No.2 and her husband. Their implication in the complaint is meant to harass and humiliate the husband's relatives. This seems to be the only basis to file this complaint against the appellants. Permitting the complainant to pursue this complaint would be an abuse of the process of law.”

9. In ***B.S. Joshi and others vs. State of Haryana and another, (2003) 4 Supreme Court Cases 675***, the Hon'ble Supreme Court has observed as under :-

“If for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power. Thus, the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

10. Recently, in the case of ***Rajesh Sharma and others vs. State of U.P. and another (Criminal Appeal No.1265 of 2017, decided on 27.07.2017)***, the Hon'ble Supreme Court has observed that “....*there is need to check the tendency to rope in all family members to settle a matrimonial dispute. Omnibus allegations against all relatives of the husband cannot be taken at face value when in normal course it may only be the husband or at best his parents, who may be accused of demanding dowry or causing cruelty. To check abuse of over implication, clear supporting material is needed to proceed against other relatives of a husband.*”

11. In the case in hand, the petitioner is the father-in-law of the daughter of the complainant. It is also worthwhile to note that the proceedings have been initiated here in India whereas the daughter of the complaint is residing in Canada. Not a single instance has been given as to when or as to how or in what manner petitioner herein is involved in the commission of alleged offences. A complaint, lodged in Canada, was investigated and found to be false.

12. In view of the foregoing discussion and ratios of law laid down by the Hon'ble Supreme Court in the judgments rendered in ***Preeti Gupta and another vs. State of Jharkhand and another, B.S. Joshi and others vs. State of Haryana and another, Rajesh Sharma and others vs. State of U.P. and another (supra)*** and ***Harmanpreet Singh Ahluwalia and Others Versus State Of Punjab and Others***, this Court is of the considered view that there is no specific allegation/detail against the petitioner, to constitute an offence under Sections 406, 498-A and 506 of the Indian Penal Code.

13. In view of the above, the instant petition is allowed. Consequently, FIR No. 208 dated 25.07.2014, under Sections 498-A, 406 and 506 of the Indian Penal Code, registered at Police Station Dharamkot, District Moga and all consequential proceedings arising thereunder are quashed qua the petitioner herein.

04.05.2018

Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No