

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

Crl. Misc. No. M-30827 of 2016

Date of decision : 11.05.2018

Kuldeep Singh & Anr.

..... Petitioners

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Ms. Manmohan Kaur, Advocate
for the petitioners.**

Mr. Rahul Rathore, DAG Punjab.

**Mr. Narinder Singh, Advocate for
Mr. D.S. Malwai, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioner No.1 Kuldeep Singh and his wife Kanwaljit Kaur-
petitioner No.2 have approached this Court seeking quashing of FIR No.
128 dated 17.06.2014 (Annexure P-1) registered under Sections 406 and
498-A IPC, Police Station Sadar Dhuri, District Sangrur. A challenge has
also been laid to order dated 12.08.2015 vide which charges were framed
against them and others under Sections 406, 498-A and 201 IPC. The
petitioners have also questioned the legality and propriety of order dated
05.05.2016 vide which the revision preferred by them and one Hari Singh
against framing of charges, was dismissed.

Respondent No.2 was married with Manmohan Singh on
16.07.2008. Petitioner No.2 is the sister of Manmohan Singh and petitioner

No.1 is her husband.

The FIR was registered by respondent No.2 on the allegations that that dowry was given as per wishes of her in-laws, but they were not satisfied. The girl was harassed for dowry and was asked to bring money for sending her (complainant) and her husband abroad. Her father gave Rs.4 lacs to her husband and in-laws family for sending them abroad. She along with her husband went to France and returned in December, 2013. On return, all the accused started harassing her and under coercion she gave the savings made abroad to in-laws. It was further alleged that her sister-in-law and her husband i.e. present petitioners and elder brother-in-law Gora Singh interfered in the affairs and on their instigation she was beaten by her husband. In February, 2014 she was turned out of the house and all her dowry articles and gold jewellery were retained and destroyed and they refused to settle her in the matrimonial home.

On the basis of aforesaid complaint, FIR was registered against and investigated. The petitioners were arrested on 19.06.2014, father-in-law Hari Singh on 26.06.2014 and husband Manmohan Singh was arrested on 07.07.2014. Pair of gold ear rings was recovered from Kanwaljit Kaur while a gold ring was recovered from petitioner Kuldip Singh.

Trial Court framed charges under Sections 406, 498-A and 201 IPC against the petitioners and co-accused on 12.08.2015. Aggrieved therefrom, the petitioners and Hari Singh filed a revision petition, which was dismissed on 05.05.2016.

Dis-satisfied therewith, the petitioners have filed the instant petition.

Quashing was sought, inter alia, on the ground that the petitioners were married about thirteen years prior to the marriage of complainant at village Jai Singh Wala and were living separately from the couple and they have not interfered in the matrimonial life of the couple and no entrustment was alleged against the petitioners nor any overt act is attributed to the petitioners and only general and vague allegations were levelled against them and they have been implicated with a malafide intention just to widen the net being the close relatives of the husband with whom the complainant failed to maintain matrimonial ties.

In the reply filed on behalf of State, it was averred that during investigation the complicity of the petitioners was found. They were arrested and recovery was effected. During investigation statement of Gurpreet Singh, cousin of complainant was recorded under Section 161 C.P.C. in which it was mentioned that Rs.1.50 lacs was given by the complainant to the petitioner on 22.12.2013 in his presence. It was averred that there were specific allegations against the petitioners and they were put to trial and were rightly charge-sheeted by the trial Court and the revisional Court had dismissed their revision.

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. and the charge sheet can be quashed in exercise of the powers under Section 482 Cr.P.C.

Petitioner No.2 is the married sister-in-law of the complainant and petitioner No.1 is her husband. 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 abundantly clear from a perusal of FIR that no specific allegations were made against the petitioners. The FIR is silent about handing dowry articles to the petitioners. General sweeping allegations have been made that the father of complainant gave Rs.4 lacs to her father-in-law and other in-laws for sending them abroad and after return the complainant was forced to part with the savings made by her abroad, which she gave to in-laws. It was not specifically averred that to whom the amount was given by the complainant. It cannot be believed that amount of Rs.1.50 lacs was paid to the petitioners who were married much earlier and were residing separately. The complaint is silent about this and the assertion made by Gurpreet Singh that the amount was paid to the petitioners in his presence is merely an improvement. The amount of Rs.4 lacs was given for sending the couple abroad. The amount was utilized by them and the couple had gone to France. No specific incidents of cruelty were given and it was only alleged that on the instigation of petitioners, the husband of the complainant used to beat her. Except this, no overt act had been attributed. Bald and vague allegation had been made against the petitioners 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 petitioners cannot be said to be involved in the offence. They cannot be asked to suffer the agony of trial which will be lame and protracted.

In **Satish Mehra Vs. State of N.C.T. of Delhi & Anr.** AIR 2013 SC 506, it has been observed thus:-

“15. The power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations made in the FIR or the criminal complaint, as may be, prima facie do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be exercised sparingly and only if the attending facts and circumstances satisfies the narrow test indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed. However, if so warranted, such power would be available for exercise not only at the threshold of a criminal proceeding but also at a relatively advanced stage thereof, namely, after framing of the charge against the accused. In fact the power to quash a proceeding after framing of charge would appear to be somewhat wider as, at that stage, the materials revealed by the investigation carried out usually comes on record and such materials can be looked into, not for the purpose of determining the guilt or innocence of the accused but for the purpose of drawing satisfaction that such materials, even if accepted in its entirety, do not, in any manner, disclose the commission of the offence alleged against the accused.”

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 petitioners are 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 petitioners alone are quashed.

Whatever has been said hereinabove is without prejudice to the case against the remaining accused.

11.05.2018
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(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No