

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

Crl. Misc. No. M-31935 of 2014

Date of decision : 15.02.2018

Baljit Kaur & Anr.

..... Petitioners

versus

State of Punjab & Ors.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Navjeet Singh, Advocate
for the petitioners.**

Mr. Pawan Sharda, Sr. DAG Punjab.

**Mr. Anish Garg, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioner No.1 Baljit Kaur and her husband Kamaljit Singh-
petitioner No.2 have approached this Court seeking quashing of FIR No. 99
dated 19.04.2014 (Annexure P-1) registered under Sections 323, 406 and
498-A IPC, Police Station Mandi Gobindgarh, District Fatehgarh Sahib.

Respondent No.2 was married with Harjinder Singh on
08.07.2007. Petitioner No.1 is the sister of Harjinder Singh, petitioner No.2
is her husband.

The FIR was registered by respondent No.2 on the allegations
that that dowry was given in the marriage, but her in-laws were not
satisfied. The accused gave beatings to her and pressurized her to bring Rs.3
lacs to repay the loan taken to construct a house. She further alleged that on
24.08.2013 and 10.12.2013 she was given beatings. It was averred that on

28.03.2014 her sister-in-law Baljit Kaur and her husband came to her and hurled abuses and returned. On 29.03.2014 she was given beatings by her husband and parents-in-law. She called her father and the accused again raised demand of Rs.3 lacs and threatened to set her on fire in case the demand was not fulfilled. The matter was reported at Police Station Dugri, but no action was taken. She came to her parental home and submitted the complaint.

On the basis of aforesaid complaint, FIR was registered and investigated.

Quashing was sought, inter alia, on the ground that the petitioners were living separately from the couple and only general allegations are levelled against them and in the complaints earlier given to the police there was no overt act attributed to the petitioners and in the subsequent complaint they have been implicated with a malafide intention.

In the reply filed on behalf of State as well as respondent No.3, who was the investigating officer, it was admitted that the petitioners were living separately, but it averred that after registration of the case, their involvement was found and final report was prepared, but could not be submitted in the Court because of directions issued by this Court.

It is apt to mention here that this Court vide order dated 16.09.2014 while issuing notice of motion had directed the investigating agency not to submit the final report under Section 173 Cr.P.C.

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 No.1 is the married sister-in-law of the complainant and petitioner No.2 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. General sweeping allegations have been made that the petitioners came to the matrimonial house of the complainant on 28.03.2014 and hurled abuses upon her. No specific incidents of cruelty were given. In the complaint, Annexure P-5 given to the police of P.S. Dugri, Ludhiana on 29.03.2014 there was no mention about hurling of abuses by the petitioners. The FIR is silent about handing dowry articles to the petitioners. There was no allegation of misappropriation. The allegations in the FIR revolve around the husband and parents-in-law regarding demand of Rs.3 lacs. It is not disputed that the petitioners were living separately from the couple. They would not be termed as beneficiary to the alleged demand of Rs.3 lacs raised for repayment of loan. 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 for the offence of demand of dowry.

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.

15.02.2018

Jiten

(ANITA CHAUDHRY)

JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No