

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

CRM-M-33003-2018

Date of decision:-2.8.2018

Gurwinder Kaur

...Petitioner

Versus

Kulvir Kaur and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Ankit Kharbanda, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of filing the instant petition under Section 482 Cr.P.C., petitioner Gurwinder Kaur seeks quashing of the order dated 1.5.2018 passed by learned Additional Sessions Judge, Amritsar dismissing revision petition preferred by petitioner against order dated 8.1.2016 passed by Judicial Magistrate Ist Class, Amritsar vide which the trial Court did not summon the accused respondents whose names had been mentioned in the complaint.

Briefly stated, facts of the case are that complainant Gurwinder Kaur had filed a private complaint for the offences under Sections 406, 498-A, 506, 120-B and 323 IPC against accused Nek Singh, Swinder Kaur, Swaran Singh, Kulvir Kaur, Pritpal Singh, Kulwinder Kaur and Darshan Singh on the allegations that she was

married with accused Nek Singh on 16.5.2011 with great pomp and show at Maharaja Palace, Amritsar and at that time her parents had given sufficient dowry articles; that at that time her mother-in-law Sawinder Kaur, brother-in-law Swaran Singh, sister-in-law (jethani) Kulveer Kaur, sister-in-law (nanad) Kulwinder Kaur, brother-in-law(sister's-in-law husband) Darshan Singh and Pritpal Singh had taken part in all marriage ceremonies; that dowry articles were handed over to all of them for giving the same to her in matrimonial home but they misappropriated the said articles; that such accused used to harass and maltreat the complainant so as to force her to bring more dowry articles; that when the complainant unable to met those demands, she was turned out of the matrimonial home; that she could arrange Rs.50,000/- with great difficulty, which she gave to accused but her maltreatment continued. According to the complainant, she had informed the police but no action was taken, as such, she brought private complaint in the Court.

After recording of preliminary evidence, the trial Magistrate vide order dated 8.1.2016 summoned the accused observing as under:

The evidence of the complainant has gone un rebutted and unchallenged at this stage. The testimony of the witnesses CW1, CW2 and CW3 sufficient ground is made out against the accused No.1 to 3 namely Nek Singh, Sawinder Kaur and Swaran Singh u/ss 498-A, 406/506/323/120-B IPC and it is ordered accordingly. No sufficient ground is made out to summon the accused no.4 to 7 namely Kulveer Kaur, Pritpal Singh, Kulwinder Kaur

and Darshan Singh under aforesaid section. No specific allegation levelled against them. Complaint against accused no.4 to 7 is dismissed. There is general tendency to rob of all family member u/s 498A IPC just to satisfy the grudge against the husband. So complaint is hereby dismissed against the accused no.4 to 7. Let accused no.1 to 3 are ordered to be summoned u/s 498A, 406/506/323/120-B IPC for 17.2.2016 on filing PF, copies of complaint and list of witnesses within 7 days.

Aggrieved by the order vide which the trial Court had not summoned accused Nos.4 to 7, the complainant had preferred a revision petition to the Court of Sessions, which was marked to learned Additional Sessions Judge, Amritsar, who had dismissed the revision petition vide order dated 1.5.2018.

During pendency of the revision petition, petitioner withdrew petition against respondents No.1, 2, 6 and 7 and it was dismissed as withdrawn. Respondents No.4 and 5 had appeared through counsel. Respondent No.3 had refused to accept service. Therefore, the revision was heard in his absence. The operative part of the judgment dated 1.5.2018 passed by learned Additional Sessions Judge, Amritsar is as under:

7. Admittedly, during pendency of this revision, petitioner has withdrawn the present revision against respondents No.1, 2, 3, 6 and 7. It is necessary to mention here that the perusal of trial court file also reveals that the complaint is

also since withdrawn by the petitioner and she is residing with her husband. Even otherwise, the statement of the petitioner through her counsel regarding withdrawal of the revision against respondents No.1, 2, 3, 6 & 7 makes it clear that the petitioner has opted not to challenge the impugned order under revision so far as it relates to the summoning of respondents No.1, 2, 6 and 7 meaning thereby the petitioner has conceded the said order to be a reasoned order to that extent. While advancing arguments with regard to setting aside of the impugned order under revision qua respondents No. 4 and 5, petitioner has pointed out that the trial court has not passed a well reasoned order which argument of the counsel for the petitioner is self contradictory. In the given circumstances, it is in the fitness of things to mention here that even in addition to the fact that the petitioner has started residing with her husband and has not contested her complaint before the trial court, careful perusal of the impugned order under revision reveals that while exonerating the respondents No.4 to 7, the trial court has expressed its opinion though precisely by stating that *No sufficient ground is made out to summon the accused No.4 to 7. No specific allegation is leveled against them as such, complaint against those respondents was dismissed.* It is the grudge of the counsel for the petitioner that such opinion/observation of the trial court is not an expression of opinion in true sense. In this regard, it is

necessary to mention here that there is no hard line principle to express opinion by the court in certain number of words. It is only to be seen by the revisional court that whether the court has applied its mind on the facts and circumstances of the case as well as the evidence led during inquiry proceedings so as to guide herself to pronounce the order. Such appreciation of evidence and materials on file is apparent from the impugned order under revision as the trial court has specifically opined that no specific allegations are there against the respondents No.4 to 7 and that no sufficient ground is accordingly made out to summon them. Accordingly, no ground is made out to interfere with the impugned order passed by the trial court.

8. Resultantly, the revision petition stands dismissed being without any merits. The impugned order dated 08.01.2016 passed by the court of Ms. Satwinderjit Kaur, PCS, Judicial Magistrate Ist Class, Amritsar, is upheld. Trial court file be returned back forthwith alongwith copy of this judgment. The revision file be consigned to the record room.

I have heard learned counsel for the petitioner besides going through the record I do not find any such illegality or infirmity with the impugned orders much less apparent on the face of it. The orders are certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned orders.

The petition being without merit stands dismissed accordingly.

2.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No