

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

CRM-M-32631-2015 (O&M)

Date of decision:11.12.2018

Ajit Singh and another

.....Petitioners

versus

State of Haryana and another

....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Dhananjay Singh, Advocate for
Mr. Anil Ghanghas, Advocate
for respondent No.2.

Kuldip Singh, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for quashing of Criminal Complaint No.307-1 dated 14.11.2013 (Annexure P-3) filed under Section 379/380/356/382/392/411/457/506 of Indian Penal Code and pending before learned Chief Judicial Magistrate, Bhiwani and summoning order dated 22.07.2015 (Annexure P-5), passed by learned Chief Judicial Magistrate, Bhiwani vide which the petitioners have been summoned to face trial under Sections 379, 380, 356, 392 & 506 read with Section 34 IPC. From the complaint (Annexure P-3), it is made out that Tanu D/o accused No.1 & 2 i.e. present petitioners was married with Digvijay S/o respondent No.2-Jatanpal Singh on 17.01.2013. It is alleged

that on 05.07.2013, accused Nos.1 & 2 took away their daughter Tanu to their house from the house of Digvijay Singh S/o Jatanpal Singh who was residing at Delhi with an intention to falsly implicate the family of the complainant. It comes out that the complainant is residing at Bhiwani and the accused-petitioners are residing at Greater Nagar, District Gautam Buddha Nagar (U.P.). It is alleged that FIR No.602/13 under Sections 498A, 323, 506, 376A & 307 IPC, was got registered at Police Station Kasna, District Gautam Buddha Nagar (U.P.) against the complainant and his family members. On 21.07.2013, accused No.1 called the complainant on phone to Greater Nagar asking him to take Tanu back to their house. When the complainant went to the house of the accused, they called the police and got him arrested. He has admitted to bail on 12.08.2013.

It is further alleged that on 02.11.2013, at about 1.00PM when complainant gone to the bank in Tehsil & District Bhiwani, his wife Mahesh Kumari was alone at home and then accused Nos.1 & 2 along with 5-6 persons entered the house of the complainant and started threatening Mahesh Kumari-wife of the complainant and asked her to give jewellery set, Kangan, one pair ear rings, one pair jhumki of ear, one pair thread and needle set of ear, one pair jhala of ear, nath of nose, moti of nose, necklace, chain of neck and two rings, otherwise they will kill her. Due to fear, Mahesh Kumar-wife of the complainant opened the almirah and then accused No.1 forcibly snatched the key of almirah from her and they took away gold jewellery and they also took away jewellery belonging to the complainant i.e. one gold chain weighing two tola, one gold necklace

weighing four tola and cash Rs.47,000/-.

On the basis of said allegations, complaint was filed after the learned Magistrate sought the report of the police under Section 202 Cr.P.C. Police submitted the report that complaint was false. However, after considering the preliminary evidence of the report of police, Magistrate pass summoning order dated 22.07.2015 (Annexure P-5).

I have heard learned counsel for the parties and gone through the file carefully.

Learned counsel for the petitioner vehemently argued that it was a matrimonial dispute. The daughter of the petitioners was married with Digvijay Singh. There was a matrimonial discord on account of which, the present petitioners lodged FIR against their son-in-law and family members. To settle the score present occurrence has been cooked up by alleging that the jewellery was forcibly taken away along with some jewellery items and cash of the complainant. Counsel has also referred to the report under Section 202 Cr.P.C. The police conducted the enquiry and found that the present petitioners-accused Nos.1 & 2 had not come to the house of the complainant and no threat was ever issued and their complaint is false. Learned Magistrate ignored the said report.

I am of the view that the present petitioners belong to Greater Nagar(UP) which adjoined to New Delhi. Petitioners belong to Bhiwani. The gold articles of daughter of the present petitioner allegedly were lying in the house of the complainant which were forcibly taken away. Already matrimonial dispute was going on and a case under Sections 498A, 323,

506, 376A and 307 IPC was got registered at Police Station Kasna, District Gautam Buddha Nagar (U.P.) against the complainant and his family members. Therefore, it is unlikely that the accused will go to the house of the complainant at Bhiwani to commit the robbery in this manner. The present complaint appears to be counter blast to the case got registered against the complainant and family members.

Accordingly, present complaint is nothing but misuse of process of Court. The complaint on enquiry on the police found to be false. As such Criminal Complaint No.307-1 dated 14.11.2013 (Annexure P-3) filed under Section 379/380/356/382/392/411/457/506 of Indian Penal Code and pending before learned Chief Judicial Magistrate, Bhiwani and summoning order dated 22.07.2015 (Annexure P-5), passed by learned Chief Judicial Magistrate, Bhiwani, are hereby quashed.

Petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

11.12.2018
anju rani

Whether speaking/ reasoned:
Whether Reportable:

Yes
No