

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

Crl. Misc. No. M-33970 of 2017

Date of decision : 30.08.2018

Dr. S.K. Varma & Anr.

..... Petitioners

versus

State of Haryana & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

Mr. Gaurav Bansal, AAG Haryana.

**Respondent No.2-complainant in person with
Mr. Kanhiya Soni, Legal Aid Counsel.**

ANITA CHAUDHRY, J.

The petitioners are seeking quashing of FIR No. 149 dated 14.02.2017, registered under Sections 323, 406, 420, 498-A read with Section 120-B IPC at Police Station City, Hisar and the consequent proceedings taken therein including final report filed in the case dated 29.07.2017.

The petitioners are the parents-in-law of respondent No.2. Marriage of their son was solemnized with respondent No.2 on 05.05.2013. This was the second marriage of the couple. Respondent No.2 moved a complaint to the police against the parents-in-law (the petitioners), her husband and one Uma Chaudhary. In the complaint, it was alleged that her

parents spent more than Rs.15 lacs in the marriage. After the marriage, the accused started raising demand of more dowry and she was maltreated on trivial matters. A car was demanded and she was beaten by her husband on the instigation of his parents. Her jewellery was retained by her mother-in-law and on 24.06.2013 she was sent with her brother to her parental home. On 12.07.2013 she returned to her matrimonial home and gave Rs.3 lacs to her mother-in-law. Still she was ill-treated. She was taken back to her parental home. Due to stress, her father died on 19.12.2013. The accused refused to rehabilitate her and attempts were made for mediation but those failed. Constrained she lodged FIR No. 738 dated 14.08.2014 against the accused under Sections 323, 406, 498-A read with Section 34 IPC at Police Station City Hisar. A complaint under Section 12 of Domestic Violence Act was filed and maintenance was fixed and she was given residence rights in the matrimonial home. The accused later misrepresented to her and on allurements made, she withdrew the application filed under Section 12 of D.V. Act and Section 125 Cr.P.C. and the petition filed under Section 13 of the Hindu Marriage Act. Still there was no change in the behavior of the accused and they started harassing her on one pretext or the other. On 25.05.2016 she was asked to bring Rs.40 lacs in lieu of her half share in the property of her father so that a Mercedes car could be purchased. She refused to do so, then the accused misbehaved with her and hurled abuses. Her mother-in-law threw hot vegetable on her and she was burnt. On 05.06.2016 the petitioners incited their son to ask her for the share in the parental property. Her father-in-law asked her to look for a rented accommodation. Her husband, on the instigation of other accused, had beaten

her and she was turned out of the matrimonial home on 17.08.2016. The matter was reported to the police and a compromise had taken place and she was taken back to the matrimonial home. On 25.08.2016 she was beaten by her husband and mother-in-law and demand of dowry was raised and her mobile was snatched. Her signatures were obtained on some papers and she was left at her parental home at Hisar. It was mentioned that on the false assurance of the accused she withdrew her cases and she was turned out of the matrimonial house and her *istridhan* was retained.

On the basis of aforesaid complaint, FIR was registered and investigated. It was pointed that investigation was complete and final report was submitted in the Court. Vide order dated 13.09.2017 proceedings before the trial Court were stayed.

It has been averred in the petitioner that in the first FIR the petitioners were found innocent and their names were shown in column No.2 of the challan. The trial against their son had culminated into his acquittal. On the same set of allegations and certain exaggerated facts, this second FIR had been lodged by the complainant. It was further averred that the petitioners are aged persons and had nothing to do with the matrimonial life of the couple who were staying in separate portion of the house and the allegations against them are vague, false and were made just to rope them.

In the reply filed by the State, it was admitted that the petitioner had got a FIR registered earlier also, but it was claimed that the impugned FIR was lodged on the subsequent cause of action which arose on 25 and 26.08.2016 and during investigation cogent and consistent evidence was collected against the petitioners and their son and challan was filed and they

can take all the pleas before the Court below at the time of charge. It was further averred that the cases were withdrawn by the complainant on the assurance of accused and the compromise which had taken place earlier had no effect on the subsequent FIR.

Respondent No.2-complainant filed her reply. The allegations of the FIR were reiterated. It was claimed that on account of tainted investigation, the petitioners were not challaned in the previous FIR and the cases were withdrawn by her on the false assurance of the accused. After withdrawal of cases, the accused again started maltreating her on one pretext or the other and she was turned out of the matrimonial home. Though the accused compromised the matter but did not honour it and she was beaten on 25.08.2017 and was dropped at her parental home by the husband on 26.08.2017 and was forced to write on some papers about her going to Hisar of her own. It was also mentioned that she was maltreated and beaten by the accused as she refused to accept their demand of bringing cash of Rs.40 lacs in lieu of share from the parental home so that a new Mercedes car could be purchased. Hot vegetable was thrown on her by the mother-in-law while her father-in-law asked her to look for a rented accommodation. Photographs were also annexed with the reply. It was further averred that constrained with the conduct of the husband and his parents, she was forced to lodge the FIR in 2014 and the second FIR is on different cause of action. It was pleaded that her husband had filed a divorce petition and she was cheated by the petitioners and her son.

In the rejoinder filed by the petitioners, averments made in the petition are reiterated. It was averred that the dispute is primarily between

the couple who could not adjust with each other and they have been unnecessarily dragged.

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. filed against the petitioners can be quashed in exercise of the powers under Section 482 Cr.P.C.

The petitioners are the parents-in-law of respondent No.2. It is not in dispute that they are more than 80 years of age. It is also not in dispute that it is the second FIR lodged by the complainant, the first one was registered under Sections 323 and 498-A IPC on 14.02.2017 and the second one was under Sections 323, 406, 520, 498-A IPC read with Section 34 IPC. It is not disputed that in the first FIR, both the petitioners were found innocent by the investigating agency and only the husband was *challaned* and put to trial. During trial, no application under Section 319 Cr.P.C. was filed by the complainant for the summoning of the petitioners and the husband was acquitted as respondent No.2 did not support the prosecution case. In the second FIR, the complainant reiterated the allegations of first FIR and narrated certain instances pertaining from May 2016 onwards. A perusal thereof reveals that the allegations against the petitioners were omnibus and general in nature. No specific incidents had been given. The case set up is that on the assurance and allurement made by the accused she was made to withdraw the cases. They were arraigned as respondent in Domestic Violence Act case and she had been given residence rights therein and did not dispute that she was given a room upstairs in the house. It was

urged that the petitioners could not be said to have given any false assurance. They were not the party either in the criminal case or the maintenance case and it was the husband who was facing trial and was slapped with the responsibility of payment of maintenance to the wife.

The complainant had stated that her signatures were forcibly taken on documents showing receipt of jewellery, but as per own showing of complainant, in Annexure R-13 she herself had admitted that she had taken back all the jewellery from her husband, which was gifted to her father. In the reply in para No. 13 she admitted that after taking her jewellery she came to Hisar on 28.05.2016 and kept it in the locker. Otherwise also, there are no specific allegations of entrustment to the petitioners.

The allegation against the petitioners of instigating their son to ask the complainant to bring her share is concerned, it has come on record that in the year 2015 she had filed a suit against her brother seeking partition of the house left by her deceased father. The plea of the complainant that the accused forced her to file it stands belied from the fact that at that point of time, the relations between them were strained and she was pursuing the case even after lodging the second FIR against the husband and in-laws. The petitioners are more than 80 years of age cannot be said to be beneficiary of the demand of Rs.40 lacs for purchase of Mercedes car. The allegations in the FIR primarily revolve around the husband and the petitioners are roped in out of frustration, being the parents of the husband with whom the complainant failed to maintain the matrimonial ties.

No MLR pertaining to the incident of 25/26.05.2016 was produced. The photographs, Annexure R-14 produced are of different dates. It was claimed to have been taken on 25.05.2016 and 05.06.2016. No complaint is shown to have been made either on 05.06.2016 when she claimed that she was beaten by the accused or in respect to the incident of 25.05.2016 when petitioner No.2 allegedly threw hot food on her. She admittedly had gone to the police station at Jalandhar on 25.05.2016 when she was turned out of the matrimonial home in the month of August, 2016, but she did not make any complaint about demand of dowry and harassment. Rather she made the complaint at Hisar on 30.11.2016 after a considerable delay. It is abundantly clear from a perusal of FIR that no specific allegations were made against the petitioners. The allegation against petitioner No.1 that he asked the complainant to look for a rented accommodation does not constitute any offence. General, sweeping and bald allegations had been made against the petitioners 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 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.

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 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.

It is made clear that whatever has been said hereinabove is without prejudice to the case against the remaining accused.

30.08.2018

Jiten

Whether speaking/ reasoned

Whether reportable

(ANITA CHAUDHRY)

JUDGE

Yes/ No

Yes/ No