

Crl. Misc. No.M-37767 of 2016 (O&M)

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

**Crl. Misc. No.M-37767 of 2016 (O&M)
Date of decision : 27.02.2018**

Subhash Chander Gupta and others

.....Petitioner(s)

Versus

State of Punjab and others

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Veneet Sharma, Advocate
for the petitioners.

Mr. Rahul Rathore, DAG, Punjab.

Mr. Mohinder Kumar, Advocate
for respondent nos.2 & 3.

ANITA CHAUDHRY, J(ORAL)

This petition has been filed by the married sister-in-laws and their husbands seeking quashing of the complaint (Annexure P-3) and the subsequent proceedings and the order dated 31.05.2016 (Annexure P-4), vide which they had been ordered to be summoned.

A complaint under the Domestic Violence Act was filed by Jyoti. She was married to Vivek in February 2014. The allegations levelled against the husband were that he used to maltreat her and beat her at the instance of his sisters and brother-in-laws as she had brought insufficient dowry. The allegations are that in July 2015 she was mercilessly beaten

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and turned out of the matrimonial home. With the intervention of the respectables of the locality, the complainant and her husband started living in a rented accommodation and the husband had promised to pay Rs.22,000/- per month to her.

The allegations are that after shifting to the rented accommodation the other respondents again started interfering in her life and harassed her. It was also claimed that the dowry articles were not given to her.

The complainant had prayed for a number of reliefs mainly for maintenance, return of the dowry articles, litigation expenses and damages.

The sister-in-laws and their husbands have preferred this petition on the plea that both of them were married much prior to the marriage of the complainant. Petitioners no.1 & 2 were married in 1993 whereas petitioners no.3 & 4 were married in the year 2000 and they had separate residence and were living in different districts. It was pleaded that the complainant was married in February 2014 and petitioners no.1 & 2 had allowed the complainant to live in their house for few months but they moved out of their house in September 2014 and they lived in the rented accommodation for few months before moving in the house of the in-laws.

The proceedings as against the petitioners had been stayed. On the last hearing, the counsel appearing for respondent nos.2 and 3 had made a statement specifically that they do not want to file any reply.

I have heard counsel of both the sides.

The submission made on behalf of the petitioners is that both the sisters were married much prior to the marriage of their brother and

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they had a separate residence they were not living in the same house. It was urged that their only fault was that they had allowed the couple to live in their house in Amritsar for few months before they shifted in a rented accommodation. It was urged that the rent note is available on record, which shows that they had taken the rented accommodation in September 2014. The counsel has referred to Annexure P-2. The counsel has submitted that the complainant has not chosen to file reply and refute the allegations with respect to marriage of the sisters and the other facts disclosed by them. It was urged that the Magistrate without application of mind has issued notice to all the respondents without caring to go through the allegations. It was urged that no specific date when the complainant was beaten was detailed and there is no MLR and vague and exaggerated claims have been made and it is a case of over implication and the complaint has been filed against them to harass and humiliate the husband's relatives.

A query was posed to the complainant side to inform whether any FIR had been lodged with respect to any incident of beating and whether there was any MLR. The counsel had stated that he would need to verify.

Respondents had taken a number of dates to file reply and ultimately a statement was made on previous hearing that no reply had to be filed.

Counsel for the petitioners had contended that had there been any MLR or any FIR, there would have been a reference to it in the complaint.

The counsel for the respondents relied upon *Taramani Parakh Vs. State of M.P. and others 2015(2) RCR (Criminal) 445, State of Madhya Pradesh Vs. Awadh Kishore Gupta and ors. 2004(1) RCR (Criminal) 233, State of Madhya Pradesh Vs. Surendra Kori 2013(7) RCR (Criminal) 6, K.A. Ravindranathan Vs. K. Ravindra Nair and others 2005 CriLJ 3828* and *Rupan Deol Bajaj Vs. Kanwar Pal Singh Gill 1995(3) RCR (Criminal) 700* and has urged that when there are allegations then it should be left to the trial Court to examine them and the complaint should not be quashed and it is not permissible to look into any material and that is the function of the trial Court and it is that Court which will evaluate the material and documents.

The respondents have not been able to refute that both the sisters and their husbands were residing separately. They have chosen not to file the reply. The role given to the petitioners in the complaint is that they used to instigate the husband to beat the complainant. Similar allegations have been levelled in para 5 and 9 of the complaint. The main body of the complaint does not mention what articles were handed over to them. There are vague and sweeping allegations and the reasons are obvious. It has been noticed that in matrimonial cases there is a tendency to rope in the entire family and make wild and sweeping allegations. The complainant has not given any specific dates on which the petitioners had instigated or had caused any beating. Both the sisters were married long ago. It is distressing to note that there is a reverse trend now-a-days and women are abusing the beneficial provisions and are implicating the family members of the in-laws. They do not realize that it creates hurdle even in reconciliation proceedings.

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We are conscious of the fact that generally the proceedings should not be quashed but when the allegations are made against the married sister-in-law and her husband who were married number of years ago and were residing separately, they cannot be even remotely connected and cannot be made to undergo the ordeal of a trial. The involvement of the sister-in-laws and their husband is an outcome of hatred in the mind of the complainant side on account of matrimonial discord. It is a fit case where the proceedings against the sister-in-laws and their husband should be quashed as the allegations against them are bald.

The instant petition is allowed. The complaint, the summoning order and the subsequent proceedings qua the petitioners are quashed.

27.02.2018
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No