

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

CRM-M-39715 of 2018

Date of Decision:-11.09.2018

Kulvir Sharma and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Siddharth Gupta, Advocate
for the petitioners.

GURVINDER SINGH GILL J.(Oral)

The petitioners seek quashing of FIR No.129 dated 21.10.2016, registered under Sections 406, 498-A IPC (Sections 354 and 506 IPC added subsequently), at Police Station Women, Ludhiana, District Ludhiana.

The FIR in question was registered at the instance of complainant Reema Sharma, wherein allegations have been levelled against seven persons to the effect that they had been harassing her so as to press upon demand of dowry and had also retained articles of her *istridhan*.

The present petitioners are brother-in-law (Jeth) and sister-in-law (Jethani). It has been submitted by learned counsel for the petitioners that the complainant in an attempt to rope in maximum number of relatives

of her husband has named the present petitioners in the FIR and that absolutely vague and general allegations have been levelled against them. Learned counsel for the petitioners has submitted that the matter was in fact initially inquired into by the ACP (Crime against Women) and vide his report dated 10.10.2016 (Annexure P-2) it had been found that the sister of complainant's husband and her husband were residing in Pune and that even the present petitioners were residing separately in a separate house and that they have been falsely implicated. It has further been submitted that the complainant, however, in order to exert undue pressure, approached the Commissioner of Police, Ludhiana, who marked another inquiry into the matter and the matter was again inquired by the Deputy Commissioner of Police (Investigation), who somehow returned the findings against the present petitioners.

Learned counsel has submitted that conducting of repeated inquiries has been deprecated by this Court and has referred to order dated 1.4.2008 passed by the Director General of Police, Punjab, reproduced as under :-

“It has come to light that enquiries are being got conducted by the applicant's side or opposite side by giving various applications. In this connection, on one application or case, various enquiries are got conducted from the officers of the district or from the higher officers of outside districts. For this, tension between the general public is being increased and they always try in getting reports in their favour. Keeping this experience, reports are given against one another which affect the

case. The senior officers face difficulty in finding out the truth and giving independent decision. So, in future concerning one application or case, only inquiry be conducted by the concerned officers of the district which should be complete on the basis of proofs. In case on any application or case, the enquiry is to be got conducted from the higher officers of outside district/Range, then the case be sent for further enquiry after approval of the undersigned or Punjab Government. Strict compliance be made.

Sd/-
Director General, Police,
Punjab, Chandigarh.”

Learned counsel has further submitted that ordinarily no further inquiry ought to be held by the police except under the orders of the Court and of Human Rights Commission or any statutory body of the State or as envisaged in the instructions issued by the Director General of Police. The learned counsel in this context has referred to a judgment passed by this Court in **Criminal Misc. No. M-18244 of 2008** in a case titled “Jaswinder Singh vs. State of Punjab and others”, decided on 12.1.2009. The relevant extract from the said case is reproduced herein for the sake of right reference :-

“Multiple inquiries not only cause injustice to the petitioner-complainant but also become a source of abuse, harassment and cause delay in conclusion of criminal investigation and trial.

How many inquiries and by how many officials ?
A sort of self-discipline is required to be instilled in Punjab Police by the officials who are at the helm of

affairs.”

Learned counsel has submitted that in fact the FIR in question was lodged after seven years of the marriage and that when the entire allegations are examined, it is writ large that the petitioners have been falsely roped in by levelling very general and vague allegations without there being any specific instance of any harassment on their part.

Having heard the learned counsel for the petitioners, the petition is disposed of with liberty to the petitioner to raise all the points raised herein before the trial Court at the stage of consideration on framing of charges. The trial Court shall look into the matter and pass a speaking order while considering the question of framing of charges.

The personal appearance of petitioner no.2 shall remain exempted subject to following conditions :-

- (i) she will be represented by a counsel;
- (ii) she will not delay/stall the proceedings of the trial Court;
- (iii) she will not dispute her identity;
- (iv) she will have no objection if the prosecution evidence is recorded in her absence but in presence of her counsel;
- (v) she will appear before the trial Court as and when required by the trial Court and shall abide by any other condition which the trial Court may impose;

September 11, 2018
Vijay Asija

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No