

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

Crl. Misc. No. M-43558 of 2016

Date of decision : 17.10.2018

Ravi Kumar & Anr.

... Petitioners

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Aayush Gupta, Advocate
 for the petitioners.
 Mr. Jagmohan Ghumman, DAG Punjab
 Mr. PKS Phoolka, Advocate
 for respondent No.2.**

ANITA CHAUDHRY, J.

Petitioner No.1 Ravi Kumar and his wife Asha Rani-petitioner No.2 have approached this Court seeking quashing of FIR No. 10 dated 12.03.2016 (Annexure P-1) registered under Sections 406 and 498-A IPC, Police Station Women, District Bathinda and consequent proceedings taken therein.

Respondent No.2 was married with Vikas on 26.01.2015. Petitioner No.1 is the brother of Vikas and petitioner No.2 is his wife.

The FIR was registered by respondent No.2 against her in-laws on the allegations that that dowry consisting of jewellery and gifts were given as per wishes of her in-laws, but they were not satisfied. She was harassed and demand of a motor cycle was raised. The demand was not fulfilled and she was turned out of the matrimonial house by the accused. A complaint was given to the police and with the intervention of Panchayat she was taken to her matrimonial house on 07.07.2015. After some days, the

accused reiterated their demand of motor cycle and cash of Rs.70,000/- towards repayment of loan taken by Vikas. She refused for the same. The accused started harassing and maltreating her one way or the other. She learnt that her husband was having illicit relations with the wife of his elder brother i.e. Petitioner No.2 herein. She was turned out of the matrimonial house on 06.09.2015 and her isticidhan was misappropriated. The complaint was moved to the police, on the basis of which FIR was registered and investigated.

This Court vide order dated 06.12.2016 had stayed the proceedings qua the petitioners.

Quashing was sought, inter alia, on the ground that the petitioners were married about ten years prior to the marriage of complainant and were living separately from the couple and they had not interfered in the matrimonial life of the couple and no entrustment was alleged against the petitioners nor any overt act was attributed to the petitioners and only general and vague allegations were made against them and they had been implicated with a malafide intention just to widen the net being the close relatives of the husband with whom the complainant failed to maintain matrimonial ties.

In the reply filed on behalf of State, it was averred that during investigation the complicity of the petitioners was found. It was averred that there were specific allegations against the petitioners and challan against them was prepared and ready for submission in the Court.

The complainant in the reply had reiterated the allegations of the FIR and it was submitted that the petitioners were instrumental and had

played active role in causing harassment for dowry and had misappropriated her dowry articles.

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. and the charge sheet can be quashed in exercise of the powers under Section 482 Cr.P.C.

Petitioner No.1 is the married brother-in-law of the complainant and petitioner No.2 is his wife. In catena of judgments, the Courts have viewed the seriousness of the implication and over-implication of the relations of the husband by exaggerating the allegations in the cases of matrimonial discord. It is relevant to refer to some of them.

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.

Similarly, in the case of **Harjinder Kaur & Ors. Vs. State of Punjab, 2004(4) RCR (Criminal) 332**, a criminal complaint was filed under Sections 498-A and 406 IPC against the husband, his parents and 5 sisters. The proceedings qua sisters were quashed as the allegations against the sisters were found to be vague and exaggerated and made to rope in each and every relation of the husband.

In **Arnesh Kumar Vs. State of Bihar & Anr. 2014(3) RCR (Crl.) 527**, the Hon'ble Apex Court observed that the fact that Section 498-A IPC is a cognizable and non-bailable offence had lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield

by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

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 that case the Hon'ble Apex Court quashed the criminal proceedings against brother and sister of husband, living separately.

It is abundantly clear from a perusal of FIR that no specific allegations were made against the petitioners. The FIR is silent about handing dowry articles to the petitioners. It was stated that a woollen coat pent fabric and shagun of Rs.1100/- was given to petitioner No.1 and ladies suit and shagun was given to petitioner No.2. Except these gifts, there is no allegation of entrustment to the petitioners. By no stretch the articles given to the petitioners fall within the definition of *istridhan* and can only be termed as gifts given in the marriage to the relatives. Much stress has been laid by State counsel as well as counsel for the complainant that the petitioners were residing jointly with the couple and were instrumental in causing harassment to the complainant for dowry. In the FIR registered by the police, in the columns where the details of accused were given, different address of the petitioners was mentioned by the police. Leaving this fact aside, the demand raised in the FIR was of motor cycle and Rs.70,000/- for repayment of loan taken by the husband. The petitioners cannot be a

beneficiary thereto. No specific incidents of cruelty were given. No overt act had been attributed, except the general sweeping allegation that the husband of the complainant was having illicit relations with petitioner No.2. Bald and vague allegation had been made out of frustration 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 offence.

In Satish Mehra Vs. State of N.C.T. of Delhi & Anr. AIR 2013 SC 506, it has been observed thus:-

“15. The power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations made in the FIR or the criminal complaint, as may be, prima facie do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be exercised sparingly and only if the attending facts and circumstances satisfies the narrow test indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed.”

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.

Whatever has been said hereinabove is without prejudice to the case against the remaining accused.

17.10.2018
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(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No