

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 44206 of 2015 (O&M)

Date of decision : 13.7.2018

...

Harjang Singh and another

.....Petitioners

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. K.S. Dadwal, Advocate for the petitioners

Ms. Samina Dhir, Deputy Advocate General,
Punjab

Mr. A.S. Brar, Advocate for respondent No.2

...

H. S. Madaan, J.

This petition under Section 482 Cr.P.C. for quashing of FIR No. 13, dated 18.7.2015, for offences under Sections 498-A, 406 IPC, registered at Police Station Women Jagraon, District Ludhiana, has been filed by petitioners Harjang Singh and his wife Charanjit Kaur, both of them being accused in that FIR.

Briefly stated, facts of the case are that complainant Balwinder Kaur d/o Babu Singh submitted a written complaint to SSP, Police District Ludhiana (Rural), on the allegations of cheating and turning out alongwith child in three clothes, demand of money in

cash, misappropriation of dowry articles, being threatened with death in case of re-entry in the house, refusal to allow peaceful life and being threatened with divorce etc. against her husband Gurpreet Singh Doal, father-in-law Harjang Singh, mother-in-law Charanjit Kaur, contending therein that she was married with Gurpreet Singh Doal on 25.2.2011. At that time her parents had spent a huge amount of Rs.10-12 lacs giving dowry articles as per demand of her husband and parents-in-law, including costly gifts to her husband and parents-in-law. Complainant was permanent resident of Canada and an NRI. It was her second marriage, the first marriage having ended in divorce. According to the complainant she had handed over her dowry articles to the accused. That after some time of marriage, her husband and parents-in-law started harassing her, stating that dowry articles had not been given as per their status. The petitioner tolerated this maltreatment to save her marriage. She returned to Canada in April 2011. The complainant ensured migration of her husband Gurpreet Singh Doal to Canada who reached there in February 2012. There he in connivance with his parents again started harassing the petitioner. He would beat her up also. Mother-in-law of the complainant came to Canada on 18.7.2013, where she remained for 4-5 months. Fed up with such treatment the complainant had informed the police.

After registration of the FIR, the petitioners are seeking quashing of FIR for several reasons; that marriage between Balwinder Kaur and Gurpreet Singh Doal was a simple affair and no dowry was given or accepted, except customary gifts given to the accused and

close relatives; that the fact that the complainant was a divorcee was concealed from the accused; that during the stay of about two months in India when the complainant remained in matrimonial home alongwith her husband, she alongwith her husband spent more than one month for going on honeymoon/enjoyment trips to Shimla, Dehradun and various outer places and visited relatives of both the sides and lastly the complainant left India in the first week of May 2011. As a matter of fact during her stay in India, the complainant remained admitted in Kaliyani Hospital, Jagraon, for about 20 days due to her pregnancy problem as a result of her previous marriage and the entire expenditure for her treatment was borne by her husband Gurpreet Singh Doal and the present petitioners. Gurpreet Singh Doal left for Canada to join the complainant after about 8-9 months of marriage and he is living over there and has never came back to India. The couple spent time in cordial atmosphere and a male child was born to them on 29.11.2012; that the relations between the complainant and Gurpreet Singh Doal became strained due to bad temperament of the complainant; that son of the petitioners, Gurpreet Singh Doal was compelled to call the police in Canada and then spouses started residing separately; that Gurpreet Singh Doal had filed a case in the Court and marriage has rightly ended in divorce; that the case regarding custody of child is pending in the Court in Canada; that in order to cause harassment to the petitioners and their son, Balwinder Kaur came to India on 7.7.2015 and from the Airport straightway went to the Police and filed a complaint for registration of a case in the office of SSP, Jagraon. She did not come to house of

the petitioners. According to the petitioners, the Courts in India do not have any jurisdiction to deal with the matter and the complainant has lodged the FIR only to cause harassment to the petitioners, who are senior citizens and have not committed any offence; that the complainant just want to grab the property of the petitioners; that the FIR does not disclose any offence against the petitioners and lodging of the FIR and ancillary proceedings are an abuse of the process of the Court.

Notice of the petition was given to the respondents, who put in appearance.

I have heard, learned counsel for the petitioners, learned State counsel and learned counsel for respondent No.2-complainant, besides going through the record.

As it comes out from the record, after the marriage Balwinder Kaur and her husband Gurpreet Singh Doal, who is son of the present petitioners, resided in India for about two months and thereafter left India in the first week of May 2011, going to Canada. It seems that in Canada both the spouses developed differences and were/are involved in litigation. The FIR in question has been lodged on 18.7.2015 i.e. after four years of the marriage. It does not appeal to the reason that while the complainant and her husband were residing in Canada, the petitioners would harass and maltreat the complainant being dissatisfied with the dowry articles brought by her so as to pressurize her to bring more dowry articles. The alleged incidents of maltreatment and torture of complainant by her husband and in-laws relate to Canada and no cause of action was available to

the complainant to lodge FIR against her husband and parents-in-law with the police of Police Station Sadar, Jagraon. It seems that as a pressure tactics, the complainant came to India and lodged the FIR and it appears to be nothing but an abuse of process of law. It is specific case of the petitioners that complainant was a divorcee at the time of contracting marriage with their son Gurpreet Singh Doal, which fact was concealed by her and her parents. In that way they had cheated them but despite that they kept quiet and did not take any action. In Canada also, fed up with the maltreatment and misbehavior of the complainant, her husband Joga had filed a divorce petition dated 16.9.2015, before Superior Court of Justice, Brampton, Ontario, though case regarding custody of child is pending before Superior Court of Justice, Brampton, Ontario. The complainant has lodged the FIR to pressurize her husband and in-laws and to grab the landed property of her in-laws.

Furthermore, the allegations in the FIR are general and sweeping. No specific entrustment of any dowry articles has been alleged. Within a period of two months, the complainant could not have been subjected to such cruelty etc. so as to force her to bring more dowry articles from her parents. If it was so, then the question arises that why did she kept quiet for such a long time and lodged the FIR all the way coming to India from Canada, after four years, when her husband filed a divorce petition against her and sought custody of their son by moving a petition in the Court of competent jurisdiction at Brampton, Ontario, Canada and not at the earliest when she was allegedly harassed in connection with dowry soon after the marriage.

Learned counsel for the petitioners has referred to various authorities, first of the those being **Sukhdeep Kaur and another vs. State of Punjab and another 2015 (4) RCR (Criminal) 892**, by a Coordinate Bench of this Court, wherein it was observed that in the recent past a tendency has developed for roping in all the relations of husband in dowry cases in order to browbeat and pressurize the immediate family of the husband. It was further observed that for the fault of the husband, the other relations cannot, in all cases, be held to be involved in the demand of dowry.

He has further pressed into service **Bhaskar Lal Sharma and another vs. Monica 2009 (3) RCR (Criminal) 866**, by the Apex Court, wherein it was observed that any gift made to the bridegroom or his parents whether in accordance with any custom or otherwise also would not constitute any offence under Section 406 IPC.

Learned counsel for the petitioners has further placed reliance upon **Smt. Adarsh and others vs. State of Punjab and another 1992 (1) RCR (Criminal) 667**, by a Coordinate Bench of this Court, where while dealing with a case relating to an FIR under Sections 406, 498-A IPC, relating to allegations of misappropriation of *istridhan*, it was found that allegations were highly improbable and not acceptable to common sense. The FIR was quashed qua the petitioners holding that it is no rule of thumb that whatever has been stated in FIR has to be accepted as gospel truth even if it is altogether unacceptable to common sense. It was a case where the wife had lodged FIR under Section 406 and 498-A IPC, against the entire

family members of husband without making specific mention as to which particular article of dowry was handed over to which particular accused. The FIR qua sister, brother and brother's wife of husband was quashed.

Another authority referred to by learned counsel for the petitioner in **Rakesh Kumar and others vs. State of Punjab and others 2009 (2) RCR (Criminal) 565**, by a Coordinate Bench of this Court, wherein it was observed that High Court can quash the proceedings even after framing of charge.

In view of the above discussion, the petition has merit and deserves to be accepted, the same is allowed. Resultantly, the FIR alongwith its ancillary proceedings are ordered to be quashed, being an abuse of process of law and in the interest of justice. .

13.7.2018
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No