

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

**Crl. Misc. No. M-6109 of 2016**

**Date of decision : 13.11.2018**

**Mahender Aggarwal & Ors.**

**..... Petitioners**

**versus**

**State of Haryana & Anr.**

**... Respondents**

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

**Argued by: Mr. A.P. Bhandari, Advocate  
for the petitioners.**

**Mr. Arun Kumar, AAG Haryana.**

**None for respondent No.2.**

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**ANITA CHAUDHRY, J.**

The petitioners are seeking quashing of FIR No. 657 dated 26.11.2015, registered under Sections 498-A and 506 read with Section 34 IPC and under Section 4 of Dowry Prohibition Act at Police Station Saran, District Faridabad.

The petition was filed by four persons, namely Mahender Aggarwal, Naveen Kumar, Sudesh Kumari and Padam Aggarwal. On 10.06.2016 petition qua petitioners No.2 and 3, namely Naveen Kumar and Sudesh Kumari was withdrawn and notice was issued qua petitioners No.1 and 4.

The marriage of Naveen Kumar was fixed with the daughter of

complainant-respondent No.2. It was scheduled for 27.11.2015. A day prior the complainant filed an application against all the petitioners alleging that he spent Rs.11 lakh in the ceremonies and a day prior to the marriage, all the petitioners demanded another Rs.11 lakh and a Swift car in marriage. The demand was not fulfilled and the petitioners broke the marriage and criminally intimidated him.

The FIR was registered and investigated. It has come on record that final report was filed for trial of the petitioners.

Petitioners No.1 and 4 are the material uncle of Naveen. They have sought quashing of the FIR on the ground that no marriage took place and the ingredients attracting Section 498-A IPC are conspicuously missing. The gift items and Shagun given in the pre-marriage ceremonies do not constitute dowry and the provisions of Section 4 of Dowry Prohibition Act are not made out. It was further averred that petitioners No.1 and 4 are residing separately and there was no occasion for them to extend threat to the complainant and they have no concern with the alleged demand of Rs.11 Lakh and car and the allegations against them are vague, false and were made just to rope them.

In the reply filed by the State, it was averred that petitioners No.1 and 4 along with other accused pressurized the complainant to pay Rs.11 Lakh and a car and when the demand was not fulfilled they refused to perform marriage. According to the State, the petitioners' side was persuaded not to break the marriage, they hurled abuses and criminally intimidated the complainant. It was further pleaded that Section 498-A and 511 IPC were deleted and challan was filed against the accused under

Sections 406, 506 read with Section 34 IPC and Section 4 of Dowry Prohibition Act and the petitioners can take the pleas at the time of charge.

None had appeared on behalf of respondent No.2 despite service.

I have heard learned counsel for the petitioners No.1 and 4 and learned State counsel 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 petitioners No.1 and 4 can be quashed in exercise of the powers under Section 482 Cr.P.C.

A perusal of FIR would show that there was no specific entrustment to petitioners No.1 and 4, which is *since qua non* for the offence under Section 406 IPC. The State was asked to file complete copy of challan and a perusal thereof would show that in his supplementary statement the complainant himself had stated that he of his own had given approximately Rs.10 Lakh till *lagan* to Naveen Kumar for purchasing of material of marriage and *Shagun*. It was not specifically stated that anything was given to petitioners No.1 and 4 or that it was under coercion. There is force in the contention of learned counsel for petitioners No.1 and 4 that if any gift item was given to them during pre-marriage ceremony, the same does not constitute dowry, as provided in the Dowry Prohibition Act.

Petitioners No.1 and 4 had taken a specific stand in Para No.7 and 10 of the petition that they were residing separately from Naveen Kumar. In the reply filed by the State, there is no specific denial to this fact. They are the maternal uncle of Naveen and cannot be termed to be beneficiaries to the demand of cash and a car. The allegations against

petitioners No.1 and 4 are that they forced Naveen Kumar to break the marriage. Petitioners No.1 and 4 are residing separately and were not beneficiaries and it cannot be expect that they were instrumental in breaking of marriage or they had criminally intimidated the complainant. Once the ties were broken, there was no occasion for them to extend threat to the complainant. At this stage, the Court do not want to delve into the issue of breaking of marriage as it would affect the trial of other accused. It appears that petitioners No.1 and 4 were roped in being the maternal uncle of Naveen after the marriage broke, to widen the net. It cannot be forgotten that there is a tendency to rope in the relatives in such like situation. In the considered opinion of this Court, by mere conjectures and implications, petitioners No.1 and 4 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 held 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.”*

Though, in the case in hand no marriage had taken place, yet an attempt had made to rope in petitioners No.1 and 4 out of frustration as the marriage was broken. In catena of judgments the issue of exaggerated versions of the incident and the tendency of over implication was considered in the cases of matrimonial disputes and proceedings against them were quashed. Reliance can be placed on **Kans Raj Vs. State of Punjab & Ors., 2000(2) RCR (Criminal) 695 (SC)** and **Anita & Ors. Vs. State of Punjab, 2003(4) RCR (Criminal) 313.**

The stand taken by the State that the petitioners can raise plea during arguments on charge is not sustainable. In **Divya @ Babli & Ors. Vs. State of Haryana, 2006(4) RCR(Crl.) 322**, this Court quashed the proceedings qua sisters. 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 petitioners No.1 and 4 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 petitioners No.1 and 4 alone are quashed.

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

13.11.2018

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(ANITA CHAUDHRY)  
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No