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

**CRM-1620-2019 in/and
CRM-M-19376-2017
Date of decision: January 22, 2019**

Hem Raj and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Parshotam Lal Singla, Advocate
for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Ashish Gupta, Advocate
for respondent No.2.

RAJ SHEKHAR ATTRI, J.(ORAL)

CRM-1620-2019

Application is allowed as prayed for.

Copy of order dated 08.04.2017 is taken on record.

CRM-M-19376-2017

This is a petition filed under Section 482 of Criminal Procedure Code for quashing of FIR No.118 dated 08.10.2016, under Section 498-A of the Indian Penal Code, registered at Police Station Jaito, District Faridkot along with all consequential proceedings arising out of the FIR.

Learned counsel for respondent No.2 submitted that without filing the reply, he will contest the petition.

A marriage between complainant and Krishan Kumar was solemnized in the year 1991 as per Hindu religious rites and out of this wedlock, one son and one daughter were born. It is specifically stated in the FIR that accused persons were harassing the complainant after marriage due to bringing less dowry and they were demanding more dowry. She was beaten up and they were demanding cash from her but complainant failed to fulfill their conditions and demands. Due to this reason, she was thrown out of the matrimonial home in the year 2006. She moved an application before the Senior Superintendent of Police, Faridkot and this application was investigated. It is specifically stated in the FIR as under:-

“That the parents of the petitioner/applicant spent huge amount at the time of the marriage as per demands of respondents and his parents. The parents of the petitioner also gave sufficient dowry as per demand of the respondent and his family members. But the respondent and his parents were not satisfied and were demanding for more dowry and cash etc. But when the petitioner No.1 could not fulfill their demands then after giving her beating she was turned out and then petitioner No.1 moved an application on 14.11.2006 to SSP Faridkot which was marked to Women Cell Faridkot which was investigated, where the respondent and his parents admitted their fault and effected compromise and took the petitioner to their house.”

The quashing has been sought on the grounds as set out in para No.8(a) to (j) of the petition which read as under:-

- a) That complainant No.2 left the matrimonial home along with his brother after 23 years of married life. There was nothing mentioned about the brought up of both children who were well educated though the petitioners were living in village Sehna which is at a distance of about 20 KM from Barnala City. At this stage the welfare of the children are to be seen but on the trifle

dispute she left the matrimonial house on the ill advice of his brothers and present FIR has been lodged only to harass the old stage parents in-laws.

- b) That the allegations regarding harassment since marriage for demand of dowry is totally false because marriage was in the year 1991 and first instance has been mentioned of year 2006 when allegedly a complaint was made to SSP Faridkot and matter was compromised and complainant joined the husband and in-laws family. Thus no offence of demand of dowry is made out as the father of the complainant died in 1987 before the marriage and mother died in 2005.
- c) That to get her settled in the matrimonial life petitioner No.2 got her joined a private school at Sehna. The income earned by her was got deposited by her in her bank account. At the time she left the matrimonial home she taken the FDR of her income which have accumulated at that time at about Rs.1,00,000/-. The bank FDR is with her in her name only.
- d) That the alleged incidence of 27.05.2014 is totally false. Because there was no demand of Rs.1,00,000/- to be brought from the parental family but this matter has been falsely fabricated on the advice of her brother who is an advocate. The demand of Rs.1,00,000/- is falsified because the petitioner No.1 grand-father of the children have got opened MIS account in the Post Office at village Sehna in the name of Bimal Kumar Rs.90,000/- in December 2010 were deposited and in the name of Vishali Rani Rs.45,000/- were deposited on 12.01.2011. From these accounts monthly interest is being received by the children for their personal expenses. Petitioners have bank balances in their name which falsifies the allegation of demand of Rs.1,00,000/- and which cannot be presumed to have been demanded after 23 years of marriage and parents of the complainant have expired.
- e) That the allegations levelled in the FIR are general and these have been levelled after 23 years of the marriage. Both the children remained with the petitioners when she left the house along with his brother and children were called by respondent

No.2 on 01.10.2014.

f) That in the medication proceedings before the police authorities the only condition levied by the respondent No.2 was that the old parents in-law should be thrown out from the house and she can only come to the matrimonial home if parents in-law are not residing there. When the petitioner Nos.1 and 2 are taking care of the family from the agriculture income and providing well education to the grand-parents and have deposited money in their account, this condition of respondent No.2 is totally wrong because at this stage parents in-law who are at advance stage and have various health problems, care by the children is required. Respondent No.2 is going away from her duty to take care of the old parents in-law at the advance stage of age.

g) That though FIR has not been registered against Anita Rani sister-in-law but mentioning of her name in the complaint shows the mala fide intentions of complainant wife that she even not spared the married sister of the husband with mala fide intentions.

h) That the Hon'ble Supreme Court in Preeti Gupta's case reported as 2010(7) SCC page 667 has held that *"It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned*

members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under [section 498-A](#) as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.”

But, in the present case the issue has been aggravated by the brother of complainant who is an advocate for the reasons best known to him. The lodging of FIR after 25 years of the marriage speaks the truth itself that the petitioners have been falsely implicated.

i) That the Hon'ble Supreme Court has laid down parameters in Bhajan Lal's case for the quashing of the criminal proceedings and petitioners case is being also covered under those conditions. The conditions laid down by Hon'ble Supreme Court of India in State of Haryana vs. Bhajan Lal and others reported as AIR 1992 SC 604 are reproduced as under:-

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the ac- cused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investi- gation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order

of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

j) That in the present case the alleged occurrence is of 27.05.2014 that is after 23 years of the marriage and complaint was made to the police on 27.06.2014 and present FIR has been lodged on 08.10.2016 that is after more than two years of the alleged occurrence. However petition under Section 125 Cr.P.C. was being contested by the complainant during this period in the Family court at Faridkot.

I have heard learned counsel for the parties and gone through the record.

It is vehemently contended that though marriage was solemnized in the year 1991 and there were no allegations before 2006 that there was any demand of dowry or they have ever harassed the complainant. But this is a matter of trial and will be considered when the parties will lead evidence before the learned trial court. However, the offence under Section 498-A IPC is continuous one and question of

limitation does not arise at all.

A bare perusal of the FIR as well as material available on record transpires that a *prima facie* case is made out against the petitioners and no case is made out to quash the FIR.

Petition stands dismissed accordingly.

However, nothing mentioned above shall affect the merits of the case.

(RAJ SHEKHAR ATTRI)
JUDGE

January 22, 2019
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No