

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

**CRM-M No.32347 of 2014**

Date of decision: 11<sup>th</sup> September, 2019

Naresh Mehta & others

... Petitioners

Versus

State of Punjab & another

... Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Ashish Aggarwal, Advocate for the petitioners.

Mr. Harbir Sandhu, Assistant Advocate General, Punjab  
for respondent No.1/State.

Mr. Veneet Sharma, Advocate for respondent No.2.

**FATEH DEEP SINGH, J.**

The private respondent No.2 Ritika filed against the petitioners Naresh Mehta (father-in-law), Sunita Mehta (mother-in-law) and Amit Mehta (husband) and others a criminal complaint under Sections 406/498A IPC. The allegations in brief are that the marriage between the complainant and Amit Mehta took place on 11.12.1999 wherein sufficient dowry articles were given to the accused, however, the accused husband and the in-laws of the complainant were not happy with the same and raised a demand of more including a car. It is thereafter, the allegations have come about as to demand of cash etc. leading to matrimonial dispute. The wife as a consequence of this, filed on 04.12.2002 a criminal complaint (Annexure P1) in which the accused

were summoned vide orders dated 13.09.2003 (Annexure P2). However, during the course of the same, on account of non-prosecution of the criminal complaint vide orders dated 20.09.2007 (Annexure P3) the complaint was dismissed in default. On the same very allegations, a second complaint (Annexure P4) was instituted by the wife on 30.01.2013 and vide orders dated 04.01.2014 (Annexure P5) the petitioners accused were summoned under Sections 406/498-A IPC against which they have invoked jurisdiction of this Court under Section 482 Cr.P.C. seeking quashment of this complain (Annexure P4) and the summoning order (Annexure P5).

Upon hearing Mr. Ashish Aggarwal, Advocate for the petitioners; Mr. Harbir Sandhu, Assistant Advocate General, Punjab representing respondent No.1/State; Mr. Veneet Sharma, Advocate on behalf of respondent No.2 and perusing the records of the case.

It is writ large on the records and could not be displaced by any of the sides that the marriage took place between the couple on 11.12.1999 and the first complaint (Annexure P1) was instituted on 04.12.2002 and which stood dismissed in default on 20.09.2007 (Annexure P3) and thereafter, second complaint (Annexure P4) was instituted on 30.01.2013 i.e. after a period of a little less than five-and-a-half years of the order of dismissal of the first complaint. As is there,

there is no mention or reasons how it was necessitated for institution of second complaint or the fate of the first complaint besides the fact that under both the offences punishable under Sections 406/498A IPC maximum sentence prescribed is three years. Under Section 468 Sub Section (2) Clause (c) Cr.P.C., the period of limitation is three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Thus, in the light of the bar of Section 468(1) Cr.P.C., no Court shall take cognizance of an offence detailed in Sub Section (2) after expiry of period of limitation. Even assuming, as is there in the first complaint (Annexure P1), the cause of action has accrued to the complainant as detailed by her in the complaint on 03.03.2001 and thus, the summoning order in the second complaint had been issued on 04.01.2014 when the Court has taken cognizance of the offence and therefore, by that analogy it is after almost thirteen years the same has come about and is hopelessly barred by limitation. Even otherwise, taking computation of period of limitation from the date of filing of the complaint, in the light of ratio laid down by Hon'ble the Supreme Court in '**Japani Sahoo vs. Chandra Sekhar Mohanty**' AIR (2007) SC 2762 de hors cognizance of the complaint being hopelessly barred by limitation.

No doubt, upon dismissal of the first complaint, the complainant has a right to either file a fresh complaint, a revision or a petition under Section 482 Cr.P.C. for which reliance is sought to be placed on **‘Jatinder Singh vs. Ranjit Kaur’ 2001 Cri.L.J. 1015**, and since the complainant has availed off remedy of filing fresh complaint, but cannot escape rigor of limitation. Learned counsel for the petitioners has sought support from **‘M. Saravana Porselvi vs. A.R. Chandershekhar @ Parthiban & others’ 2008(3) RCR(Criminal) 454**; **‘Smt. Hukami Devi & others vs. The State of Haryana and another’ 1992(1) RCR(Criminal) 357**; **‘Ashok Bajaj vs. State of Haryana’ 2003(1) CLJ (Criminal) 194**; **‘Om Parkash Bhatia vs. State of Punjab’ 2002(1) RCR(Criminal) 595**; **‘Arun Jha & another vs. State of Haryana & another’ 2006(1) RCR(Criminal) 300** to enliven his arguments and which could not be challenged by learned counsel for the respondents.

In the light of what has been detailed and discussed above, initiation of proceedings after such a yawning gap which is more than nineteen years of the marriage, renders the allegations stale and unbecoming of a trial. What one can assume is that it is nothing but a misuse of the process of the Court and would not subserve any purpose in dispensation of justice. It is a fit case for this Court to exercise its

inherent jurisdiction under Section 482 Cr.P.C. to prevent further prejudice and harassment to the petitioners. In the light of the same, proceedings by way of criminal complaint No.347/13 dated 30.01.2013 (Annexure P4) as well as the summoning order dated 04.01.2014 (Annexure P5) including the consequences arising therefrom are hereby quashed. The instant petition stands disposed off in those terms.

**(FATEH DEEP SINGH)**  
**JUDGE**

**September 11, 2019**

*rps*

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No