

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

CRM-M No.43407 of 2015

Date of decision: 23rd September, 2019

Amrit Preet Singh & another

... Petitioners

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vivek K. Thakur, Advocate for the petitioners.

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

Mr. KPS Virk, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

The petitioners Amrit Preet Singh and his mother Rajinder Kaur have invoked jurisdiction of this Court with the aid of Section 482 Cr.P.C. seeking quashment of FIR bearing No.73 dated 13.05.2014 under Sections 406, 498-A IPC pertaining to Police Station Bhawanigarh, District Sangrur (Annexure P12) along with report under Section 173 Cr.P.C. dated 15.06.2015 (Annexure P14).

The primary grounds on which the petitioners have come up are that they are permanent residents of Italy and that they are running a travel agency there. It is alleged that in the year 2004 petitioner No.1 Amrit Preet Singh came to India and underwent marriage with respondent No.2 Khushdeep Kaur and out of which a son named Kirat

Farz Jeet Singh was born. On account of matrimonial dispute, an FIR bearing No.95 dated 09.06.2006 was lodged at the instance of the wife, however the parties sorted out the dispute by way of compromise (Annexure P2) on the basis of which the said FIR was quashed. When the petitioners went back to Italy along with respondent No.2, the latter started ill-treating them and on account of which a complaint was filed by the complainant respondent No.2 which stood compromised on 10.10.2011 (Annexure P5) and in-between the couple had been visiting India number of times, however on 16.01.2012 the wife left her matrimonial home without assigning any reason and lodged complaint leading to registration of the present case.

It is alleged that even in inquiry, the DSP has held the petitioners to be innocent as it was the wife of petitioner No.1 who was reluctant to live with the husband and carrying on her matrimonial obligations. Thus, claiming that the FIR was counterblast to the matrimonial litigation ensued by the husband by way of filing petition under Section 9 of the Hindu Marriage Act, 1955 as well as under Section 12 and 25 of the Guardians and Wards Act for the custody of the minor child and therefore terming it to be misuse of the process of the Court, have sought its quashment.

Upon hearing Mr. Vivek K. Thakur, Advocate for the petitioners; Mr. Harbir Sandhu, Assistant Advocate General, Punjab

representing respondent No.1/State; Mr. KPS Virk, Advocate on behalf of respondent No.2 and perusal of the records.

The allegations levelled by complainant side were first levelled by way of FIR No.95 dated 09.06.2006 under Sections 406/498-A IPC and sections 3, 4 and 5 of the Dowry Prohibition Act, wherein specific allegations have come about that the complainant side has given on the asking of the accused, cash, costly articles including household goods comprising colour TV, fridge, washing machine, double bed having been given to the boy and thereafter due to physical abuse and mental torture by the accused, the case was got registered by father of the girl Kuljit Singh. However, subsequent thereto due to intervention of the respectables, parties have effected compromise and after some time when the accused side did not desist from carrying on with their nefarious designs subsequent FIR No.73 dated 13.05.2014 under Sections 406, 498-A IPC was registered at Police Station Bhawanigarh, District Sangrur and therefore clearly bears out that right from the inception of the first FIR in 2006 till the registration of subsequent FIR in 2014, the accused did not have clear intention and to undo the effects of the first FIR had tried to hoodwink the complainant side for a motivated cause. It is subsequent thereto, as has been the allegations by the girl that she was physically assaulted and her articles of Istridhan were never returned back to her for her use and were usurped by the accused side, the present case has come about.

Since one of the offences for which the accused have been hauled up is under Section 498-A IPC and therefore being a continuing offence by virtue of Section 468(3) Cr.P.C., there is no prescribed period of limitation in relation to taking cognizance of the offence for which this Court seeks support from **‘Balram Singh v. Sukhwant Kaur & another’ 1991(3) RCR(Criminal) 404**. It is well enunciated principle of law, reference of which can be taken note of the ratio laid down in **‘Krishna Bhattacharjee v. Sarathi Choudhury & another’ 2016(1) RCR(Civil) 151**, that properties gifted to the bride at the time of marriage or at subsequent events fall within the terminology of ‘Istridhan’ and which is her absolute property and the husband has no control over the same and thus, the contentions of learned counsel for the petitioner to the arguments put forth by the learned State counsel that these things cannot form articles of Istridhan, stands negated.

It is golden principle of law, reference of which can be taken note of the ratio laid down in **‘M.Viswanathan v. M/s S.K. Tiles Potteries P. Ltd. & others’ 2008 AIR (SC) 761** that in the exercise of powers under Section 482 Cr.P.C. the Courts are not supposed to scrutinize the evidence collected at the trial minutely and have only to adjudge the very prima facie allegations.

Reverting back to the present case, marriage between the parties is duly admitted and the factum that the parties had a matrimonial dispute for which different recourses of law were availed of by the two

sides. However the claim of the petitioner side that the husband has filed a petition for restitution of conjugal rights or seeking guardianship rights over the minor child, are to be appreciated at the time of trial if the present criminal prosecution is by way of counterblast to the same. This Court seeks support from '**State of Haryana and others v. Ch.Bhajan Lal and others**' 1992 AIR SC 604. In the present case, there is specific allegation that the husband and the mother-in-law demanded ₹ 25.00 lacs from the parents of the girl and they were not satisfied in spite of having received 32 tollas of gold and cash, are matters of much relevance, especially when the same is accompanied by acts of physical abuse of the wife and allegations which can be comprehensively looked into at the time of trial. Learned counsel for the petitioners could not pin point anything of overwhelming nature to impress upon the Court that the prosecution of the petitioners is an outcome of revenge and vengeance by misuse of the process of the Court and therefore, finding no merit the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

September 23, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No