

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

Crl. Misc. M- 12257 of 2017 (O&M)
Date of Decision: 30.1.2020

Manjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D.K. Bhatti, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Rajiv Joshi, Advocate,
for respondent No. 4—complainant.

JAISHREE THAKUR, J.

1. The petitioner by way of instant petition under Section 482 of the Code of Criminal Procedure seeks to have FIR No. 33 dated 26.3.2014 under Section 498A IPC registered at Police Station Guraya, Jalandhar, and all subsequent proceedings arising therefrom quashed.

2. In brief, the facts are that brother of the petitioner solemnized marriage with respondent No.4, namely Reena Kumari in the year 2005, out of which wedlock a male child was born. In the year 2014, the complainant got registered the aforesaid FIR alleging that her husband had gone to Greece and for the past three years has been living there. After having left, he did not give her any expenses with a result all her expenses had been met by her parents. In the said FIR, there are also allegations that the accused,

namely, Shinder Pal (husband), Manjit Kaur (sister-in-law, petitioner herein), Gagandeep Gona, Kamaljit Kaur, Rachna, Surinder Kaur (sister-in-law), Rakesh Kumar, Ashwani, Rahul, Ajay sons of Satpal, Dharampal and Rajpal, had been harassing the complainant immediately after her marriage, while submitting that she wanted to reside with her husband in her matrimonial home. Pursuant to the said FIR, the matter was investigated and it was recommended that a case be registered under Section 498-A against Shinder Pal (husband), Manjit Kaur and Surender Kaur (sisters-in-law). Aggrieved against the registration of the FIR, the instant petition has been filed by Manjit Kaur-petitioner.

3. Learned counsel appearing on behalf of the petitioner argues that the FIR is nothing but a sheer abuse of process of law and a reading of the same would show that the allegations made therein are vague without disclosing the true and correct facts. It is submitted that the petitioner was married 34 years ago and was living with her husband in Greece and, therefore, there was no occasion for her to interfere in the daily matrimonial life or to raise a demand of dowry and therefore, prays for quashing of the FIR instituted against her.

4. Per contra, learned counsel appearing on behalf of the complainant would argue that the petitioner is none other than the sister-in-law of the complainant and she was amongst other who had harassed the complainant for brining inadequate dowry and, therefore, the question of quashing of the FIR would not arise.

5. I have heard learned counsel for the parties and with their assistance have gone through the pleadings of the parties.

6. It is an admitted fact that the petitioner herein is a resident of Greece and, therefore, would not be interfering in the daily matrimonial life of the complainant. Even otherwise a reading of the FIR would show that no specific allegations have been made regarding demand of dowry, while at the same time it could clearly be borne out that her sole grouse is against her husband who had gone abroad and left her without taking care of her financially. The allegations of harassment and beatings are general without details of the date or place where she was subjected to such atrocities in her matrimonial home. At the same time, it is stated in the FIR that she wants to live with her husband in her matrimonial home and sought help to bring her husband back from abroad or she be taken by her husband along with him or her expenses to be met. It is relevant to note that in the complaint, the complainant made allegations of harassment and torture against as many as 12 persons and after investigation, the police registered the FIR qua the three persons mentioned above. The petitioner is married sister-in-law of the complainant and has been residing in Greece for the last 34 years and as such the chances of her involvement in the matrimonial affair of the complainant are very bleak. It has been noticed by the Hon'ble Apex Court in several cases that there has now been an increasing tendency of roping in every member of the family by registering a case which arises out of the matrimonial dispute and this practice has been deprecated time and again. In a case reported as **2003 (2) RCR (Crl.) 888 B.S. Joshi and others Versus State of Haryana and another**, it was observed that the object of introducing Section 498-A in the Indian Penal Code was to prevent the torture of a woman at the hands of her husband or relatives. The Hon'ble

Apex Court went on to hold that if the FIR, as it stands, does not disclose specific allegations against the accused, more so against the co-accused, specially in a matter arising out of the matrimonial bickering, it would be a clear abuse of process of law and judicial process to mechanically send the named accused in the FIR to undergo trial. It was further held that it is a well settled principle that in case an FIR does not disclose the commission of offence, the Court would be justified in quashing the proceedings. In **Madhu Limaye v. State of Maharashtra [1977] 4 SCC 551** a three-Judge Bench of Hon'ble the Apex Court held as under:

“... In case the impugned order clearly brings out a situation which is an abuse of the process of the Court, or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. Such cases would necessarily be few and far between. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally, vexatiously or as being without jurisdiction. The present case would undoubtedly fall for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, that the invoking of the revisional power of the High Court is impermissible.”

7. In **Madhavrao Jiware v. Sambhajirao Chandojirao Angre 1988 (1) R.C.R. (Crl.) 565** the Hon'ble Apex Court observed in para No. 7 as under:

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the Court

to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

8. In **State of Haryana and Ors. v. Ch. Bhajan Lal and Ors.**

1991 (1) R.C.R. (Crl.) 383 Hon'ble the Apex Court, in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure under Chapter XIV and of the principles of law enunciated by the Supreme Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 Cr.P.C., gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

(1) 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 accused.

(2) Where the allegations made in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

9. There are a catena of judgments, one such case being **Preeti Gupta and another Vs. State of Jharkhand and another 2010 (4) RCR (Crl.) 45** where it has been held by the Hon'ble Apex Court that there is unfortunate tendency to rope in all family members in the matrimonial dispute. Even in the instant case herein, a bare reading of the FIR, as such, does not disclose commission of offence under Sections 498-A/406 IPC, as there are no specific allegations of either demand or entrustment of dowry

qua the petitioners. Therefore, in the facts and circumstances of the case, this Court is of the considered opinion that continuing of proceedings against the petitioners in FIR would tantamount to an abuse of process of court and therefore, it is a fit case warranting interference under Section 482 of the Code of Criminal Procedure.

10. Resultantly, this petition is allowed and FIR No. 33 dated 26.3.2014 under Section 498A IPC registered at Police Station Guraya, Jalandhar and all subsequent proceedings arising out of the same qua are quashed qua the petitioner.

30.1.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No