

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

**CRM-M-886-2014
Decided on : 28.01.2020**

Bimla Puri and another

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Gurcharan Dass, Advocate
for the petitioner(s).

Ms. Devaki Anand Sullar, Asstt. AG, Punjab.

Mr. L.S. Sekhon, Advocate
for respondent No. 2 - Complainant.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., for quashing of FIR No. 71, dated 20.05.2013, under Sections 406, 498-A, 494, 495, 120-B IPC, registered at Police Station Kotwali Nabha, District Patiala (Annexure P-2), report under Section 173 Cr.P.C. (Annexure P-3) and all subsequent proceedings arising therefrom.

The case in brief is that respondent No.2 – Harpreet Kaur was married with Shailender Puri son of the petitioners on 21st October, 2009 at Nabha, where they resided together upto 13th December, 2009. Thereafter, son of the petitioners i.e. husband of respondent No.2 returned to Australia. No child was born out of the said wedlock. The petitioners, who were already based at Nabha at the time of the marriage of respondent No.2 with their son, continued residing at Nabha.

On 14th April, 2013, respondent No.2 – complainant sent a complaint through e-mail from Australia to I.G.P., NRI, Punjab, wherein, it

was alleged that her husband Shailender Puri had solemnized marriage with

the complainant by concealing the factum of being already married with one Jaismine and also being a father of one boy. It was further alleged that the petitioners had thus played a fraud upon her and had grabbed all her dowry articles. There were also allegations levelled against the petitioners of making illegal demands of gold jewellery at the time of marriage. It was also alleged that all the dowry articles given at the time of marriage, which had been entrusted to the petitioners, had been misappropriated by them. Pursuant to the complaint of the complainant, FIR No. 71, dated 20.05.2013, under Sections 406, 498-A, 494, 495, 120-B IPC, Police Station Kotwali Nabha, District Patiala, was registered against the petitioners and their son i.e. the husband of the complainant.

It has been vehemently urged by the counsel for the petitioners that on a perusal of the complaint (Annexure P-1) as well as FIR (Annexure P-2), it is clearly revealed that respondent No.2 (complainant) after leaving India on 03.05.2010 never ever visited India and the FIR in question, which had been registered only on the basis of an email sent by the complainant-respondent No.2, was registered without even conducting any inquiry or affording any opportunity of hearing to the petitioners. It has also been urged that strangely enough, the complainant at the time of sending the complaint (Annexure P-1) through email, was residing in Australia and even as on date complainant continues to reside in Australia. It was also submitted that even the allegations levelled in the FIR clearly revealed that the offences under Sections 406, 498-A, 494, 495, 120-B IPC were not attracted, as admittedly soon after the marriage, the complainant-respondent No.2 along with her husband i.e. son of the petitioners had left for Australia and had never returned to India since then. It was further submitted that

even the allegations of the complainant that her husband had been married earlier in Australia was an *inter se* dispute between the complainant and her husband; even assuming the said fact was true, it was not in the knowledge of the petitioners as admittedly they had been residing in Nabha and not in Australia with their son i.e. husband of respondent No.2. Therefore, it was submitted that no cause of action had arisen in India and it was beyond the jurisdiction of the police to register FIR in question at Nabha and that too on the basis of just an e-mail purported to have been sent by respondent No.2 - complainant.

While denying that the petitioners had ever demanded dowry, or dowry had ever been entrusted to the petitioners, it was argued that the petitioners, who are parents-in-law had been dragged on the basis of vague allegations just to harass them on account of the strained relations between complainant-respondent No.2 and their son. The false implication of the petitioners in the instant FIR was loud and clear from the fact that the FIR in question had been lodged after the marriage of the parties i.e. Complainant-respondent No.2 and the son of the petitioners had been dissolved vide a divorce decree in Australia on 09th February, 2013 (Annexure P-3).

On being put to notice, respondent No.1 – State, in its reply, stated that the FIR in question was registered after an inquiry had been conducted into the complaint sent by respondent No.2 (complainant) through her email and it was only after due investigation, report under Section 173 Cr.P.C. was presented in the Court. It was further submitted by the State that since the marriage had taken place at Nabha, hence, the police at Nabha was competent to register the case, as the dowry articles had been given at the time of marriage and entrusted to the petitioners at Nabha.

Respondent No.2 (complainant) in her reply, refuted the submissions made by the petitioners in their petition and reiterated her allegations against the petitioners. It was submitted that the petitioners alongwith their son i.e. her ex-husband had played a fraud upon her. It was also urged that a considerable amount of money was spent at the time of ring ceremony and thereafter, at the time of her marriage when as per the demand of the petitioners, her parents had given gold jewellery and other household articles including cash to the petitioners. It was also urged that petitioners thereafter refused to return the gold ornaments and other dowry articles on account of which she was subjected to a lot of harassment.

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

As per the admission of the complainant i.e. respondent No.2 herself, after she left for Australia in May, 2010, she never-ever visited India. Not only this, it is not even her case, that the petitioners, who are her parents-in-law on their visit to Australia, for a couple of months, subjected her to cruelty for the alleged dowry demands. Moreover, nothing has come on record to show that in the intervening period of four years prior to the registration of the FIR in question and the dissolution of marriage between respondent No.2 and the son of the petitioners, the complainant (respondent No.2) had ever put in a complaint to the authorities concerned regarding the alleged dowry demand or misappropriation of her 'Istridhan'. It is, therefore, indeed strange that it was only after four years of her marriage and that too after her marriage had been dissolved with the son of the petitioners, she levelled allegations of mental cruelty and harassment for the first time at the time of registration of the FIR in question. Coming to the alleged

concealment of earlier marriage of the son of the petitioners from the complainant (respondent No.2) on a perusal of the allegations levelled in the FIR in hand, the mischief of Section 494, 495 IPC is certainly not attracted *qua* the petitioners. It is the son of the petitioners, who had allegedly got married to respondent No.2 during the subsistence of an earlier marriage with a lady in Australia. Even assuming for the sake of arguments that the son of the petitioners had indeed been married earlier in Australia, it would be wrong to presume that the said fact was in the knowledge of the petitioners, more so, in the absence of any documentary evidence having been produced by respondent No.2 in support thereof.

No doubt, there are a number of cases, where the complaints of cruelty and harassment on account of dowry by the husband and his family are genuine and not without any basis. Courts in such like cases should refrain from exercising its inherent power under Section 482 Cr.P.C., as it would amount to smothering a legitimate prosecution. However, at the same time, it is very unfortunate that many a times, while filing complaints, exaggerated and fabricated versions are put-forth by the complainant-wife with an oblique motive to wreak vengeance on the husband and his family. Resultantly, the entire family of the husband including the extended family is roped in and attributed some role or the other in the FIR. The Courts cannot be permitted to be mute spectators and allow the continuance of such criminal proceedings, which would be nothing but an abuse of the process of law.

The instant case is no different. It is seemingly evident that the respondent No.2 (complainant) had an axe to grind against her ex-husband and his family including the present petitioners, who admittedly

have been residing at Nabha (Punjab) all along and she has tried to implicate all of them in the FIR in question.

In the circumstances, I have no hesitation in holding that the instant petition deserves to be allowed. Consequently, the Complaint Case No. 71, dated 20.05.2013, under Sections 406, 498-A, 494, 495, 120-B IPC, registered at Police Station Kotwali Nabha, District Patiala (Annexure P-2), report under Section 173 Cr.P.C. (Annexure P-3) and all subsequent proceedings arising therefrom, are hereby set aside.

(MANJARI NEHRU KAUL)
JUDGE

January 28, 2020

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*