

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.120

CRM-M-49612-2022

Date of decision : 28.10.2022

Baljeet Kaur

..... Petitioner

VERSUS

Dilbag Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Shobit Phutela, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The petitioner filed a complaint before the Additional Chief Judicial Magistrate, Sri Muktsar Sahib (for short, the Trial Court) as per which she was being harassed and tortured by her husband-respondent No.3 and his family members for bringing less dowry. She also complained that her husband was having an extra marital affair and that when she confronted him with such fact he got angry and gave her beatings. One of the incidents in her complaint was of 24.12.2017 on which date, according to her, after she was turned out from her matrimonial home and was going on her scooty, she was stopped by her husband and his family members. After her scooty had come to a complete halt, respondent No.6-Jagdeep Kaur and respondent No.2-Amandeep Kaur caught hold of her from her arms and respondent No.5-Randhir Singh caught hold of her legs. Thereafter respondent No.1-Dilbag Singh gave her beatings and her husband-respondent No.3-Gurkirat Singh tried to strangle her. When she raised an alarm, her father-Hazura Singh and one Jagsir Singh arrived at the spot and on seeing them the petitioner's husband and his family members fled from the scene.

In support of her complaint, the petitioner led preliminary evidence, after consideration of which, the Trial Court was of the opinion that the allegations made by the petitioner with regard to the incident on 24.12.2017 were *ex-facie* false as the Trial Court found the allegations by the petitioner to be vague and doubted

the presence of the complainant's father on the spot of occurrence as during the course of his examination before the Trial Court he had not given any reason for his presence. The Trial Court also found that the petitioner had not been able to prove the fact that she had complained about such incident to the police. Therefore and because the Trial Court was of the opinion that there was a tendency by the aggrieved wife to rope in her complaint all the members of her husband's family, it did not find sufficient material to summon respondent No.1-Dilbag Singh, respondent No.2-Amandeep Kaur and respondent No.4-Baljinder Kaur to face trial.

The petitioner filed a revision petition against the aforesaid order of the Trial Court which was allowed on 11.10.2021 by the Additional Sessions Judge, Sri Muktar Sahib (for short, the Revisional Court). The reasoning given by the Revisional Court to set aside the order of the Trial Court was that the Trial Court had wrongly considered respondent No.2-Amandeep Kaur to be the married sister of the petitioner's husband and respondent No.1 to be her husband, who were living separately from the petitioner's matrimonial home. Resultantly, the Revisional Court directed the said respondents to be summoned to face trial.

Respondents No.1 and 2 challenged the order dated 11.10.2021 passed by the Revisional Court by filing a petition under Section 482 Cr.P.C. before this Court. This Court was of the opinion that the Revisional Court had wrongly considered respondent No.2 to be the married sister of the petitioner's husband and respondent No.1 to be her husband as also the fact that they both were not living in the petitioner's matrimonial home as it was the admitted fact that respondent No.1 was the petitioner's husband's real brother and respondent No.2 was his wife as also that they were living in the petitioner's matrimonial home. Accordingly, the order of the Revisional Court dated 11.10.2021, being based on wrong facts, was set aside and the matter was remitted to the Revisional Court for a fresh decision, in accordance with law.

As directed by this Court, the Revisional Court heard the revision petition filed by the petitioner afresh but after assigning different reasons than the ones given by the Revisional Court in its earlier order dated 11.10.2021, upheld the order of the Trial Court dated 25.04.2019 through which respondents No.1, 2 and 4 had not been summoned to face trial. Such order of the Revisional Court is under challenge in the instant proceedings.

Learned counsel for the petitioner submits that in her complaint the petitioner has raised specific allegations against respondents No.1, 2 and 4 with regard to them having harassed her for bringing less dowry and for giving her beatings as also that on 24.12.2017 her husband and his family members, which included respondents No.1 and 2, had waylaid her and given her beatings resulting in several injuries on her person. In support of allegations she had herself stepped into the witness box and had also produced Jagsir Singh as CW-8 as also her father-Hazura Singh as CW-9. Therefore, the Trial Court as also the Revisional Court erred in not summoning respondents No.1, 2 and 4 to face trial.

Respondent No.4 is the grandmother of the petitioner's husband. A perusal of the petitioner's complaint and the preliminary evidence led by her clearly reveals vague and unsubstantiated allegations qua respondent No.4 as in the same no specific date, time or incident with regard to the allegations against respondent No.4 is found.

In her complaint, the petitioner has alleged that in addition to her husband, respondents No.1 and 2, who are her husband's brother and his wife, were also harassing her for bringing less dowry as also given her beatings. Further, the petitioner alleges that on 24.12.2017, when she was going on her scooty she was waylaid by her husband and his family members including respondents No.1 and 2 and that after her scooty had come to a complete halt, respondent No.6 and respondent No.2 caught hold of her from her arms and respondent No.5 caught hold

of her legs. Thereafter, respondent No.1 gave her beatings and her husband-respondent No.3 tried to strangle her. When she raised an alarm, her father-Hazura Singh and his friend Jagsir Singh arrived at the spot and on seeing them the petitioner's husband and his family members fled from the scene.

Respondent No.1 is the petitioner's husband's brother and respondent No.2 is respondent No.1's wife. Except the aforesaid incident dated 24.12.2017 the allegations qua them are found to be general, vague, unsubstantiated and omnibus. So far as the allegations regarding the incident on 24.12.2017 is concerned, both the Trial Court as also the Revisional Court, after going through the allegations made by the petitioner as also the preliminary evidence led by her have disbelieved her. The reasoning given by both the Courts to arrive at such conclusion is that there is a general tendency that an aggrieved wife at the time of raising a matrimonial dispute, tends to rope in as many of the family members of her husband. Further, both the Courts did not find on the record any complaint made by the petitioner to the police with regard to the alleged incident on 24.12.2017. No medical evidence in support of the allegations of beatings/strangulation was even produced by the petitioner. The presence of the petitioner's father as also his friend namely Jagsir Singh at the spot where the petitioner was being allegedly assaulted was also disbelieved as in their evidence no explanation was given by them as to why were they present at the spot at that time.

This Court concurs with the afore concurrent findings returned by the Trial Court as also the Revisional Court.

In *Kahkashan Kausar @ Sonam vs. State of Bihar and others* (2022) 6 SCC 599 the Supreme Court has held that in matrimonial disputes there is an increased tendency of implicating the relatives of the husband and that the Courts while exercising their jurisdiction under Section 482 Cr.P.C. should analyze the long-term ramifications of a trial based on such tendency. It was further observed

that the Supreme Court had found in several cases false implication of relatives of the husband in matrimonial disputes by way of general omnibus allegations made against them. Therefore, the Supreme Court through its judgments warned the Courts from proceeding against the relatives, in-laws and family members of the husband when no prima facie case is made out against them. The relevant observations in this regard read as under: -

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

When the facts of the present case are seen in the light of the afore observations made by the Supreme Court it is found that the petitioner's husband's brother, his wife and his grandmother had been roped in by the petitioner on the strength of vague, unsubstantiated and bald allegations as also that respondents No.1 and 2 were sought to be implicated on the strength of an incident which was staged.

In view of the afore discussion, this Court is disinclined to exercise its inherent powers under Section 482 Cr.P.C. to set aside the concurrent findings recorded by both the Trial Court as also the Revisional Court to not summon respondents No.1, 2, and 4 to face trial.

Dismissed.

28.10.2022
shamsher

Whether speaking/reasoned

Whether reportable

:

:

Yes / No

Yes / No

[DEEPAK SIBAL]
JUDGE