

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

206

CRM-M-2927-2020

Date of Decision : 12.04.2023

Abhishek and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.S.K.Verma, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.0049 dated 09.04.2018 registered at Police Station Bass, District Hansi, under Sections 34, 406, 498-A and 354 A(1) (ii) of IPC and the charge sheet/order dated 12.07.2018.

Despite notice and as disclosed by learned State counsel that jurisdictional SHO has talked with family members of respondent No.2, there is no representation of respondent No.2. The matter is pending since 2020 and proceedings before trial Court have been stayed, thus, this Court is left with no option except with the assistance of learned State counsel to finally adjudicate the matter.

Reply dated 17.01.2023 by way of affidavit of Raj Singh, PPS, Deputy Superintendent of Police, Hansi, is taken on record. Registry is directed to tag the same at appropriate place.

The brief facts of the case are that marriage of one Amit was solemnised with complainant-Monika on 21.01.2015 according to Hindu rites and ceremonies and a girl child was born from this wedlock in January, 2016. Amit i.e. husband of the complainant untimely passed away on 24.07.2016. The complainant after death of her husband continued to stay with her parents-in-law. The family members of the complainant were interested to get complainant married with petitioner No.1 i.e. younger brother of deceased husband of the complainant. The petitioners denied to perform marriage of petitioner No.1 with complainant. They transferred a piece of 3 acres of land in the name of the complainant and her daughter. The complainant lodged the impugned FIR against the petitioners alleging that petitioner No.1-Abhishek has refused to perform marriage with her and they are groping her. On the basis of complaint of respondent No.2, FIR was registered under Section 406, 498-A, 354-A and 34 IPC. During the course of investigation, the Investigating Officer found commission of no offence punishable under Section 354-A IPC. Accordingly, *challan* was presented alleging commission of offence punishable under Sections 406 and 498-A IPC.

Learned counsel for the petitioners *inter alia* contends that from the perusal of impugned FIR, it is quite evident that there is no allegation of demand of dowry or harassment on the part of the petitioners whereas there is allegation of inappropriately touching parts of the complainant on the part of the petitioners. The police, during investigation, has not found commission of offence punishable under Section 354-A of IPC, thus, there was no reason to file police report invoking rigour of Sections 406 and 498-

A of IPC against the petitioners. The respondent No.2 has solemnised 2nd

marriage and she is staying with her husband. The petitioners, to show their bonafide, had already transferred 3 acres of land in favour of complainant and her daughter still the petitioners are facing agony of impugned FIR.

Learned State counsel does not dispute the factual position qua transfer of land by petitioners in the name of complainant and her daughter as well as 2nd marriage of the complainant, however, she supports the case of the prosecution qua offences punishable under Sections 406 and 498-A of IPC.

I have heard arguments of learned counsel for the parties and perused the record.

The conceded position emerging from the impugned FIR as well as reply is that the complainant solemnised marriage with deceased son of petitioner No.2. The complainant was blessed with a female child. The complainant after the death of her husband continued to stay with her parents-in-law. The complainant as well as her family members were interested to get her married with petitioner No.1, however, petitioners refused to solemnise marriage of complainant with petitioner No.1. The petitioners have transferred 3 acres of land in favour of the complainant and her daughter. The complainant has already performed 2nd marriage and she is staying with her husband.

From the reading of statement recorded under Section 161 Cr.P.C. of the complainant as well as other witnesses, it comes out that there is no allegation of groping against the petitioners even though this has been jotted down in the FIR. The police in its investigation has not found commission of offence punishable under Section 354-A whereas FIR is primarily disclosing commission of offence punishable under Section 354-A

of IPC. It further appears that the complainant and her family members intended to perform marriage of complainant with petitioner No.1, however, petitioners refused their proposal. The petitioners acting in a bonafide manner had transferred a piece of land of 03 acres in favour of complainant and her daughter. No offence punishable under Sections 406 and 498-A seems to be made out against the petitioner, thus, the present petition deserves to be allowed and accordingly allowed.

FIR No.0049 dated 09.04.2018 registered at Police Station Bass, District Hansi, under Sections 34, 406, 498-A and 354 A(1) (ii) of IPC and the charge sheet/order dated 12.07.2018 and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

12.04.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>