

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

131

CRM-M-5223 of 2023
Date of decision: 18.04.2023

Sudhir Kumar and others Petitioners

VS

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE ALOK JAIN

Present :- Mr.Parminder Singh, Advocate
for the petitioners

ALOK JAIN, J. :

The present petition is for seeking quashing of Complaint No.2 dated 21.01.2019 (Annexure P-3) filed under Section 323/406/498-A and 506 IPC against the respondents and has also challenged the summoning order dated 13.10.2021 (Annexure P-4), whereby the petitioners have been summoned under Section 498-A IPC, by returning a finding that a *prima facie* case is made out against the petitioners, as they have harassed the respondent-complainant for allegedly bringing less dowry.

Aggrieved by the above, the petitioners have approached the Court on the premises that there is a violation of Section 207 Cr.P.C. and there is a gross abuse of the process of law.

The brief facts as narrated by the petitioners are that respondent No.2 got married on 27.11.2005 to one Raj Kumar, who is the brother of petitioner No.1 and younger brother-in-law of petitioner No.2 and younger brother of petitioner No.3. Out of the said wedlock, a daughter was born on 29.09.2006 and everything went on smoothly for almost 13 years, after which

Respondent No.2 raised vague and bald allegations against the petitioners and by

virtue of a panchayati settlement, respondent No.2 took away her entire dowry and left the matrimonial house on 06.06.2018. Learned counsel for the petitioners submits that there has never been any complaint against the petitioners nor they had ever interfered in the matrimonial life of their brother Raj Kumar and respondent No.2 Pinki Devi. It is further submitted that, in fact, the family of the petitioners always supported respondent No.2 to get more education and once she pursued and completed her Bachelor of Laws (LL.B) Degree, thereafter, there was a sudden change in her behaviour. He further submits that petitioner No.1 and 2 got married much before the marriage of respondent No.2 and they themselves are blessed with a daughter. Therefore, the allegations of forcing respondent No.2 to abort any female fetus did not arise at all.

Learned counsel for the petitioners has also submitted that in another proceedings initiated by respondent No.2 under Section 125 Cr.P.C, the said respondent has testified that petitioner No.3 (Nanad) used to visit once in a year in the summer vacations. Therefore, to summarize the arguments, learned counsel for the petitioners submits that respondent No.2 has entangled the entire family to humiliate and harass the husband and to exert pressure. He further submits that the petitioners have no role in the matrimonial discord between the parties and the criminal law cannot be set into motion as a matter of course, without any cogent evidence.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court of India in the case of “***Kahkashan Kausar @ Sonam and others vs. State of Bihar and others***”, Criminal Appeal No.195 of 2022, decided on 08.02.2022, wherein the appellants had approached the Court being the near relatives of the husband and the Hon'ble Supreme Court held as

under:

20. Furthermore, regarding similar allegations of harassment and demand for car as dowry made in a previous FIR. Respondent No. 1 i.e., the State of Bihar, contends that the present FIR pertained to offences committed in the year 2019, after assurance was given by the husband Md. Ikram before the Ld. Principal Judge Purnea, to not harass the Respondent wife herein for dowry, and treat her properly. However, despite the assurances, all accused continued their demands and harassment. It is thereby contended that the acts constitute a fresh cause of action and therefore the FIR in question herein dated 01.04.19, is distinct and independent, and cannot be termed as a repetition of an earlier FIR dated 11.12.17.

21. Here it must be borne in mind that although the two FIRs may constitute two independent instances, based on separate transactions, the present complaint fails to establish specific allegations against the in-laws of the Respondent wife. Allowing prosecution in the absence of clear allegations against the in-laws Appellants would simply result in an abuse of the process of law.

22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.

On the strength of the above, learned counsel for the petitioners prays for quashing of the complaint as well as the summoning order.

After hearing learned counsel for the petitioners at length, I do not find merit in the contentions raised by the petitioners as the respondent No.2 has

levelled categoric allegations that respondent No.2 was harassed by the petitioners especially petitioner No.2 after birth of a female child on 29.09.2006 and further the averment of the petitioners that they had never interfered in the life of the complainant and her husband also falls flat as the complainant has specifically stated that petitioner No.2 and respondent No.2 had started a joint business in 2017, in which a dispute arose and petitioners No.1 and 2 had to pay an amount of Rs.1,59,000/- to the complainant. This fact goes along with to show that the petitioners have not approached this Court with clean hands. More so, the complainant has led *prima facie* evidence to demonstrate that the petitioners had mentally and physically harassed the complainant. A perusal of the orders passed by the Court below demonstrate that although the complaint was filed under Section 323/406/498-A and 506 IPC, but after considering the preliminary evidence, the trial Court has issued summons to the petitioners to face trial under Section 498-A alone, being relative of the husband of a woman, who has been subjected to cruelty.

In the light of the above, the present petition is dismissed. However, nothing expressed or opined in the present order shall be construed as an expression of opinion or return of a finding. It is clarified that the trial Court shall proceed in the matter in accordance with law and the evidence available with it.

(ALOK JAIN)
JUDGE

18.04.2023

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