

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

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CRM-M-21901-2023

Date of Decision : 01.05.2023

Jagtar Singh

..... Petitioner

Versus

Amrit Pal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Vikas Singh, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition is seeking quashing of order dated 17.11.2022 whereby revision petition filed by the petitioner, against an order dated 23.09.2021 whereby trial Court has dismissed complaint of the petitioner qua summoning of respondents No.2 to 6 though respondent No.1 has been summoned to face trial under Sections 406, 498A, 506 of IPC and Section 3 of SC/ST Act, has been dismissed.

2. The brief facts of the case are that Amandeep Kaur i.e. daughter of complainant got married with Amrit Pal Singh on 28.05.2011. They were colleagues in SVIET College, Banur. They were working as Lecturer. The daughter of the complainant belongs to Majhabhi Sikh caste and family of respondents belongs to backward caste. A female child from this wedlock was born on 01.03.2012.

3. The matrimonial discord erupted between the couple which resulted into filing of complaint under Sections 406, 498A, 506 of IPC, Section 3 of SC/ST Act. It is apt to mention here that as per petitioner, they

approached police to register FIR against respondents, however, despite promise to initiate action, FIR was not registered and he was forced to file private complaint against the respondents. The complaint was filed by father of the victim though victim is working as Lecturer and she was quite competent to file complaint.

4. The complaint came up for consideration before JMIC, Patiala who after recording pre-summoning evidence vide order dated 23.09.2021 summoned Amrit Pal Singh i.e. husband of the victim to face trial for the commission of offence punishable under Sections 406, 498A, 506 of IPC and Section 3 of SC/ST Act. The trial Court did not find any substance in the allegations against family members of Amrit Pal Singh, thus, they were not summoned.

5. The petitioner feeling aggrieved from non-summoning of family members of Amrit Pal Singh preferred a revision petition before Sessions Court which came up for consideration before Additional Sessions Judge, Patiala who vide impugned order dated 17.11.2022 has dismissed revision of the present petitioner.

6. Learned counsel for the petitioner *inter alia* contends that there are specific allegations against family members of Amrit Pal Singh, thus, trial Court was supposed to summon all the family members of Amrit Pal Singh. The Revisionary Court has further committed grave error by not allowing the petition.

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

8. The present petition is continuation of revision filed before Sessions Court. The findings recorded by Revisionary Court read as :

“11. It is appropriate to mention here that daughter of complainant namely Amandeep Kaur and Amritpal Singh (accused no1) used to work together as Lecturer at SVIET College Banur and were well known to each other and they got married on 28.5.2011 with the consent of both the families. It is also brought on record that complainant family belongs to Majhbi Sikh caste and accused family belongs to BC category. Perusal of statement of Jagtar Singh reveals that he has stated that in the marriage function Malvinder Singh and Dharminder Singh who are brother in law of Amritpal Singh have lowered his reputation, misbehaved him in the public and called him with his caste in drunkard condition. He has further stated that the accused were misbehaving with his daughter with regard to demand of dowry and were calling her as Churian Di Kuri hai ishda saade naal rista nahi rai sakda in the presence of their relations as well as in the presence of their neighbours. However, the complainant has failed to examine any such relative or neighbour in those presence the said remarks were given. The complainant has also failed to examine any witness to prove that the utensils of his daughter were kept separately from the utensils of other family members.

It is further pertinent to mention here that admittedly, it was love marriage between Amandeep Kaur and Amritpal Singh and both of them are very educated and working as Lecturer in the same college. The complainant has failed to examine any independent witness to prove that sister of Amritpal Singh was compelling her mother and other family members to misbehave with Amandeep Kaur. The complainant has also stated that on one hand accused were demanding Rs.20,000/- from her salary and on another occasion, the

accused started demanding Rs. 70,000/- Per month from the salary of his daughter and on the other hand he has stated that the accused were pressuring his daughter to leave the job. The complainant has also failed to prove by way of independent evidence that the accused family was pressuring Amandeep Kaur to test get sex determination test from the doctor or that they pressurised her to get the child aborted in case of female child.

It is also pertinent to mention here that after the birth of female child on 1.3.2012, the accused and his family went to see new born child and Amandeep Kaur returned back to her matrimonial house. Later on Amandeep Kaur got allotted a quarter in Punjabi University Campus, where she was working and accused no1 started residing with her and after some time Amritpal (accused no1) left the quarter and shifted back to his parental house. The complainant has failed to examine any witness of the alleged incident of 28.5.2017 that accused family insulted him in the name of his caste in the presence of neighbourer. The complainant in his statement has mentioned that accused no 3 to 5 took gold jewelery weighing 25 tolas from Amandeep Kaur very next day of the marriage and refused to return the same. It can not be believed that if accused nos. 3 to 5 had refused to return the jewelery to the complainant, he and his daughter would have remained mum till the birth of the child and even thereafter when Amandeep Kaur and Amritpal Singh were residing together.

Thus the complainant and his daughter have failed to prove on record any specific incident of harassing, cruelty etc on record. No date or time of incident has been mentioned. As far as mis-appropriation of gold jewelery is concerned, in view of above discussion it can

not be believed. None from the neighbourhood or any domestic servant etc., has been examined to prove the incident of humiliation by the accused family in the name of caste to the complainant or his family. There are no allegations against accused no.1 regarding SC/ST Act or misrepresentation of dowry. As far as other dowry articles are concerned, admittedly, daughter of complainant started residing in the quarter taken in Punjabi University Campus.

In view of the above discussion, this court is of the considered opinion that there is no illegality or irregularity in the impugned order, which may require for any interference by this court by reversing the order. Resultantly, instant revision petition is hereby 8 dismissed. Trial court record alongwith copy of this judgment be sent to the ld. trial court. File be consigned to the record room.”

9. The petitioner in the form of petition under Section 482 Cr.P.C. has invoked revisionary jurisdiction of this court. The scope of interference while exercising power of revision is very limited.

9.1 While adverting with Section 439 of old Criminal Procedure Code which in its present avatar is Section 401, a four judge Bench of Hon’ble Supreme Court in **D. Stephens v. Nosibolla** 1951 SCC 184 has held:

“12. The revisional jurisdiction conferred on the High Court under Section 439 of the Code of Criminal Procedure is not to be lightly exercised, when it is invoked by a private complainant against an order of acquittal, against which the Government has a right of appeal under Section 417. It could be exercised only in exceptional cases where the interests of public justice require interference for the correction of a manifest

illegality, or the prevention of a gross miscarriage of justice. This jurisdiction is not ordinarily invoked or used merely because the lower court has taken a wrong view of the law or misappreciated the evidence on record.”

10. A two judge Bench of Hon’ble Supreme Court in **Kahkashan Kausar v. State of Bihar, (2022) 6 SCC 599** while dealing with issue of embroiling of all and sundry family members of a husband in matrimonial cases, after noticing its previous judgments, has held:

11. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of Section 498-A IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid State intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-AIPC as instruments to settle personal scores against the husband and his relatives.

*12. This Court in its judgment in **Rajesh Sharma v. State of U.P. (2018) 10 SCC 472**, has observed : **(SCC pp. 478-79, para 14)***

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned

in the Statement of Objects and Reasons of Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. [Explanation to Section 498-A.] It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement.”

13. *Previously, in the landmark judgment of this Court in Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, it was also observed : (SCC p. 276, para 4)*

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The

fact that Section 498-AIPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”

14. Further in Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667, it has also been observed : (SCC pp. 676-77, paras 32-36)

“32. It is a matter of common experience that most of these complaints under Section 498-AIPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned

members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close

relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

15. In Geeta Mehrotra v. State of U.P. (2012) 10 SCC 741 it was observed : (SCC p. 749, para 21)

“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in G.V. Rao v. L.H.V. Prasad [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p. 698, para 12)

‘12. ... There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.’

The view taken by the Judges in this matter was that the courts would not encourage such disputes.”

16. Recently, in K. Subba Rao v. State of Telangana, (2018) 14 SCC 452, it was also observed that : (SCC p. 454, para 6)

“6. ... The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis

of omnibus allegations unless specific instances of their involvement in the crime are made out.”

17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC 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.

11. In the case in hand, the trial Court as well as Revisionary Court has recorded categorical findings qua allegations against family members of Amrit Pal Singh. The Courts have found it appropriate to put criminal law into motion against Amrit Pal Singh i.e. husband of the victim. The Courts below did not find any ground to summon the family members of Amrit Pal Singh. As noticed by Hon'ble Supreme Court in above cited judgments, it is common practice to implicate in matrimonial disputes all and sundry family members of the husband. The petitioner is attempting to implicate all the family members of the husband of the victim. The Courts below have found allegations and evidence self contradictory. The Revisionary Court as well

as trial Court after considering evidence has recorded categoric findings which are just and right, warranting no interference of this Court.

12. In view of above facts and findings, role attributed to respondents and law laid down by Hon'ble Supreme Court in above-cited judgments, this Court does not find any ground to interfere with reasoned and speaking order passed by Courts below. The petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

01.05.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>