

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

234

CRM-M-1141-2015 (O&M)

Date of Decision: 25.05.2023

Avtar Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. G.S. Dhillon, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

Mr. Sarju Puri, Advocate
for respondent No.2.

SANJEEV PRAKASH SHARMA, J (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.14 dated 09.11.2013 under Sections 498-A IPC, registered at Police Station NRI, District SBS Nagar (Nawanshahar) and all subsequent proceedings arising therefrom as well as the order dated 21.04.2014 whereby the petitioner has been declared proclaimed offender.

Learned counsel for the petitioner submits that mere reading of the ingredients of the FIR do not reflect a case made out under Section 498-A IPC. Learned counsel submits that both the petitioner and the prosecutrix were settled in Canada and had come to India for the marriage and after the marriage, the wife left for Canada and she has later on divorced from the petitioner and has got re-married. The petitioner after divorce has also re-married.

Learned counsel for the petitioner further submits that initially an interim order was passed in his favour whereafter the same was recalled on account of absence of the counsel for which a separate application has been moved seeking recalling of the said order dated 12.10.2018. The said application has remained pending. Learned counsel submits that the main petition be decided on merits.

Learned counsel appearing for the respondent-prosecutrix submits that the wife was subjected to cruelty immediately after the marriage and she therefore after 20-25 days left her matrimonial home and went back to Canada. The dowry was demanded from her which resulted in her leaving for Canada and thus, the case under Section 498-A is made out.

I have considered the submissions made by learned counsel for the parties at length and have perused the paper book.

It would be apposite to quote the contents of the FIR in order to notice whether a case under Section 498-A IPC is made out or not:-

“Sir, I Raj Satinder Kaur D/o Late Gurmej Singh Caste Jatt R/o Lakhpur P.S. Sadar, Banga, Distt. S.B.S. Nagar Pb. Now R/o Canada. I am permanently settled in Canada. My mother and father talked about marriage to the cousin of my sister in law (Bhabi). He further brought to our knowledge a boy working along with him on work permit in Canada. His name's Avtar Singh S/o Surjit Singh Caste Jatt R/o Jasmher Khas P.S. Sadar Jalandhar. Rural/After introduction and meeting of both of us it was decided to go to India to get married. On 18.04.2012 Avtar Singh brought a barat party along with his relatives and friends to Galaxys Resorts G.T. Road Behram. There we were married as per Sikh rites. There were about 300 baratis. At the time of 'milni' Avtar Singh's father and uncle (Maternal) were gifted rings and his mother was gifted ear rings. Avtar Singh himself was gifted one gold

chain and one bracelet and one ring. I stayed at my in laws house for 20-25 days. During my stay the behaviour of my father-in-law Surjit Singh, mother-in-law Surinder Kaur, brother-in-law Kulwant Singh and sister-in-law Gurpreet Kaur was not good. They frequently commented upon not bringing dowry. As both of us were settled in Canada there was no need of dowry. My husband also came under influence his parents. I ignored all this and came back to Canada. My husband also came to Canada. He took dollars from me by love. After staying with me for 5 months he went some where without telling me and did not return. Then he called me via telephone and abused me and threatened me. I reported the entire incident to my in laws but they did not pay any heed to it. My father and mother-in-law came to Canada but they met only their relatives and not me and there returned to India. Now my brother Raj Sukhwinder Singh came to India from Canada and talked to my in laws along with some learned persons but it yielded no results. He wanted to know as to why Avtar Singh left his sister and went away. I request to action against my husband, father-in-law Surjit Singh, mother-in-law Surinder Kaur, brother-in-law Kulwant Singh and sister-in-law Gurpreet Kaur and give me justice. Yours sincerely S/d Raj Satinder tans Rai Raj Satinder D/o Late Gurmej Singh R/o Lukhpur P.S. Sadar Banga. Now R/o Canada. Mobile No.780-705-1609.”

Section 498-A IPC reads as under:-

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand”.*

Principals have been laid down by the Hon'ble Apex Court in *State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 Supl(1) SCC 335*, as to when the FIR can be quashed, were reiterated in *Preeti Gupta and another Vs. State of Jharkhand and another, AIR 2010 SC 3363* and held as under:-

22. *In State of Haryana & Others v. Bhajan Lal & Others 1992 Supp. (1) SCC 335*, this court in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure (for short, Cr.P.C.) under Chapter XIV and of the principles of law enunciated by this court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under section 482 Cr.P.C. gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

(1) *Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

(2) *Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

(3) *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make*

out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

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 husband and all his immediate relations is also not uncommon. At times, even after the conclusion of 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 scrutinized with great care and circumspection. 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 amicable settlement altogether. The process of suffering is extremely long and painful."

In the present case, from the perusal of the aforesaid FIR, this Court finds that the allegations in the FIR by the prosecutrix of Avtar Singh husband of the prosecutrix being gifted one gold chain, one bracelet and one ring. She further submits that she has stayed in her in-laws house for 20-25 days and the behaviour of her father-in-law, mother-in-law, brother-in-law and sister-in-law were not good. She does not make any allegations of being subjected to any cruelty but she says that there was comments about not bringing dowry. There is no such allegations of demand of dowry. The allegations against the husband is having come under the influence of his parents.

The behaviour of in-laws may not be good with their daughter-in-law. Concept of good behaviour is absolutely relative different persons may treat a particular behaviour as good and others may treated as not good. However, the same would not fall within the ambit of word cruelty.

In the circumstances, the allegations as made out in the FIR do not reflect there being a case coming within the four corners of Section 498-A IPC and therefore, keeping in view the principals as laid down by the Hon'ble Apex Court in the case of *State of Haryana and others Vs. Ch. Bhajan Lal and others* and *Preeti Gupta and another Vs. State of*

Jharkhand and another (supra), this Court does not find any reason to continue the criminal proceedings based on the FIR registered on 09.11.2013 against the petitioner and the others.

In view of above, the present petition is allowed and consequently, FIR No.14 dated 09.11.2013 under Section 498-A IPC, registered at Police Station NRI, District SBS Nagar (Nawanshahar) as well as the order dated 21.04.2014 whereby the petitioner has been declared proclaimed offender and all subsequent proceedings arising therefrom, are hereby quashed. No further orders are required to be passed in the orders which have been passed during the pendency of the FIR and the petitioner would be free and would not be treated as a proclaimed offender.

Accordingly, the present petition is disposed of.

The pending misc. application, if any, shall also stand disposed of.

25.05.2023

D.Bansal

(SANJEEV PRAKASH SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No