

248

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-2370-2023 (O&M)

Date of Decision: 03.04.2024

Nitish Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Aakanksha Sawhney, Advocate
for the petitioner.

Mr. Vikas Bharadwaj, AAG Haryana.

None for respondent No. 2.

Harpreet Singh Brar J.(Oral)

1. The present petition is preferred under Section 482 of the Cr.P.C. seeking quashing of FIR No. 36 dated 15.12.2021 registered under Sections 3 and 4 of Dowry Prohibition Act, 1961 (hereinafter ‘the Act’) and Section 506 of the IPC at Police Station Women, Kurukshetra.

2. Briefly, the facts are that the petitioner was engaged to be married to respondent no. 2 as a *roka* ceremony was conducted on 18.10.2020. The couple started talking on phone and the petitioner began making unreasonable demands. The petitioner insisted that respondent no. 2 changes her name from ‘Shashi Rani’ to ‘Seerat’. He further demanded that the marriage ceremony be hosted at Noor Mahal, Karnal and Rs. 70,00,000/- to Rs 80,00,000/- be spent on the same. The petitioner also threatened to shoot her if she ever disobeys his command after marriage. However, in 2021, the marriage could not be materialised due to difference in age between them as respondent no. 2 was about 9 years elder to the petitioner.

3. Learned counsel for the petitioner submits that the petitioner is an athlete who has represented India in ISSF Junior World Shooting Championship held at Lima, Peru in 50 m Rifle Prone Junior Men Individual. The FIR (supra) has been lodged in furtherance of a malicious agenda as the petitioner is a promising sportsperson competing at international level. She further submits that the marriage between the parties was never solemnised because of concealment of the age of respondent no. 2 who happens to be about 9 years elder to the petitioner. Also, the *roka* ceremony was a low-key affair that took place at the house of one Rohtash Rana with merely family members attending the same. A mere discussion of scale and venue of the wedding ceremony does not attract the offences under Section 3 and 4 of the Act. Furthermore, no previous sanction by the District Magistrate or an Authorised Officer of the State Government was obtained which is a *sine qua non* for the Courts to take cognisance of an offence under the Act. Reliance in this regard is placed on ***Rakesh Kuamr and others v. The State of Haryana an others 1994(1) R.C.R.(Criminal) 288*** and ***Jatinder Singh v. State of Haryana 1993(2) R.C.R. (Criminal) 121.***

4. Learned counsel further contends that the allegations regarding offence under Section 506 of the IPC are unfounded as conditional threat made merely by words exchanged on a conversation over phone, for imaginary injury and harm cannot be construed to be criminal intimidation. Reliance in this regard is placed on ***Tej Singh and others v. State of Haryana 2013(11) R.C.R.(Criminal) 378***, ***Surinder Suri v. State of Haryana 1996(2) R.C.R.(Criminal) 701*** and ***Ram Niwas Kosalia v. Narender Kumar Jain 1991(2) R.C.R.(Criminal) 518.***

5. Having heard the learned counsel for the petitioner and perused the record with her able assistance, it transpires that the marriage between the petitioner and respondent no. 2 was fixed but not solemnised as differences arose due to the factor of age of respondent no. 2.

6. Indubitably, prior sanction was not obtained from the District Magistrate or an Authorised Officer of the State Government before invoking the offences alleged under the Act. Section 7 of the Act reads as under:

7. Cognizance of offences.—

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

(b) no court shall take cognizance of an offence under this Act except upon—

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognised welfare institution or organisation;

(c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

Explanation.—For the purposes of this sub-section, “recognised welfare institution or organisation” means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.

(3) Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.” (emphasis added)

This Court is of the considered view that if a certain method is prescribed by law, it must be followed to accomplish the task, necessarily forbidding use of other methods. Reliance in this regard can be placed on the judgment rendered by the Hon'ble Supreme Court in ***Dharani Sugars and Chemicals Ltd. v. Union of India and others (2019) 5 SCC 480***. Furthermore, the Act is a special statute and it is trite law that if a special enactment lays down the provisions regarding procedure that must be adopted for investigation and adjudication of an offence that falls in its purview, general provisions of the IPC or the Cr.P.C. will not be attracted. Reliance in this regard can be placed on on the judgment of the Hon'ble Supreme Court in ***Jeewan Kumar Raut and another v. C.B.I (2009) 7 SCC 526*** and this Court in ***Ajay Kumar Sandhu v. State of Haryana in CRM-M-29708-2014***.

7. As far as the allegations of criminal intimidation are concerned, respondent no. 2 claimed that the petitioner had threatened to kill her if she ever disobeyed him post marriage. Section 506 of the IPC provides for punishment for the offence defined in Section 503 of the IPC. Both the provisions are reproduced below for ready reference:

“Section 503- Criminal Intimidation

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Section 506- Punishment for Criminal Intimidation

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc – and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

8. Recently, a two Judge bench of the Hon’ble Supreme Court in ***Mohammad Wajid and another v. State of U.P. and others Criminal Appeal No. 2340 of 2023*** decided on 08.08.2023, speaking through Justice J.B. Pardiwala, laid down the ingredients to attract the offence under Section 503 of the IPC:

“24. An offence under Section 503 has following essentials:-

1) Threatening a person with any injury;

(i) to his person, reputation or property; or

(ii) to the person, or reputation of any one in whom that person is interested.

2) The threat must be with intent;

(i) to cause alarm to that person; or

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.”

In the facts of the case at hand, the petitioner cannot be said to have made the alleged threat with a culpable intent to cause alarm in the mind of respondent no. 2, as such, mere abuse, rudeness or insolence may not attract the offence under Section 506 of the IPC, especially in absence of anything available on the record to indicate the same. The conversation wherein the alleged threat was made took place over call and it cannot be

reasonably presumed that the same could create an apprehension of injury in the mind of respondent no. 2.

9. In view of the discussion above, the present petition is allowed and FIR No. 36 dated 15.12.2021 registered under Sections 3 and 4 of Dowry Prohibition Act, 1961 and Section 506 of the IPC at Police Station Women, Kurukshetra alongwith all consequential proceedings arising therefrom are quashed. Pending miscellaneous application(s) if any shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

03.04.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No