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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6509-2021 (O&M)

Judgment reserved on: 21.05.2024

Judgment pronounced on: 24.05.2024

Harjit Singh and another

...Petitioner

versus

State of U.T. Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ranjit Saini, Advocate
for the petitioners.Mr. Raman Mahajan, Advocate
for respondent No.2.

Mr. J.S. Toor, Addl. P.P. U.T. Chandigarh

HARPREET SINGH BRAR J.

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of FIR No. 88 dated 29.07.2019 registered under Sections 406, 498-A of the IPC at Women Police Station Section 17, Chandigarh.

2. The marriage between Charan Kamal Singh, son of the petitioners, and respondent no. 2 was solemnised on 12.11.2017 and the family of respondent No.2 spent over Rs. 40,00,000/- on the marriage. On demand of her in laws, the parents of respondent No.2 bought a car bearing temporary no. CH-54-(T)-6973 and entrusted it to her husband. As per the instructions of her in laws, the dowry articles, including jewellery items, were sent to Gurugram. The couple left for Gurugram in the last week of November, 2017, where both of

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them resided and worked. However, matrimonial discord ensued and respondent No.2 left their home in Gurugram in 21.05.2018. On 07.07.2018, the son of the petitioners filed a petition under Section 9 of the Hindu Marriage Act, 1955 (hereinafter 'HMA'). As a counterblast, respondent No.2 filed a petition under Section 12(i)(a), HMA alleging impotency on the part of her husband, which is pending consideration before the learned Additional District and Sessions Court, Chandigarh. On 08.12.2018, when respondent No.2 asked the petitioners to restore her dowry articles and the *stridhan*, they flatly refused to do so.

3. Learned counsel for the petitioners contends that the offence under Section 406 IPC is not made out against the petitioners as neither demand nor entrustment of dowry articles is proved against them. Respondent No.2 only stayed at her matrimonial home only for a few days before moving to Gurugram where the couple worked. Further, the car was purchased by the parents of respondent No.2 in her name and no one drove the car except for her. As far as the jewellery is concerned, respondent No.2 has herself admitted in the FIR(supra) that she does not want it back but wants money in lieu of the same. In fact, respondent No.2 had filed an application dated 20.10.2019 (Annexure P-9) before the Illaqa Magistrate for deposit of her valuables with the Investigating Officer. The articles have been deposited by the son of the petitioners with the police, as reflected in the seizure memo dated 14.09.2019. The FIR(supra) has merely been lodged to harass the petitioners, who are senior citizens, as well as their family in order to extort money from them.

4. Learned counsel for respondent no.2 submits that in the written statement filed by Charan Kamal Singh in furtherance of the proceedings under Section 12 HMA, he has admitted to taking the car and other dowry articles. He



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has admitted that the dowry articles are in the possession of the petitioners. As such, the trial must be allowed to continue as enough incriminating evidence is available on record against the petitioners.

5. Learned State counsel supports the arguments of the learned counsel for respondent No.2 and submits that the final report under Section 173 Cr.P.C. was presented on 08.10.2020 and the trial is currently at the stage of prosecution evidence where 4 out of 24 prosecution witnesses have been examined.

6. Having heard the learned counsel of the parties and after perusing the record with their able assistance, it is transpires that petitioner No.1 is the father-in-law and petitioner No.2 is the mother-in-law of respondent no.2-complainant. It is evident that all the allegations are generic in nature and no specific role has been attributed to them. A two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta v. State of Jharkhand (2010) 7 SCC 667*** quashed the complaint against the sister-in-law of the complainant noting that the sole purpose of filing the complaint was to humiliate her and allowing criminal prosecution to continue would amount to an abuse of process of law. Speaking through Justice Dalveer Bhandari, the following was observed:

“34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the



pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”

7. A two Judge bench of the Hon’ble Supreme Court in **Girdhar Shankar Tawde v. State of Maharashtra (2002) 5 SCC 177**, speaking through Justice Umesh C. Banerjee, opined as follows:

“18... In any event the wilful act or conduct ought to be the proximate cause in order to bring home the charge under section 498-A and not de hors the same. To have an event sometime back cannot be termed to be a factum taken note of in the matter of a charge under section 498-A. The legislative intent is clear enough to indicate in particular reference to Explanation (b) that there shall have to be a series of acts in order to be a harassment within the meaning of Explanation (b). The letters by themselves though may depict a reprehensible conduct, would not, however, bring home the charge of section 498-A against the accused. Acquittal of a charge under section 306, as noticed hereinbefore, though not by itself a ground for acquittal under section 498-A, but some cogent evidence is required to bring home the charge of section 498-A as well, without which the charge cannot be said to be maintained...”

8. A three Judge bench of the Hon’ble Supreme Court in **Abhishek v. State of Madhya Pradesh 2023(4) R.C.R.(Criminal) 239** quashed the FIR under Section 498-A of the IPC against the mother-in-law and brother-in-law of the complainant and observed that the allegations are mostly general and omnibus in nature without any specific details as to how and when her brother-in-law and mother-in-law who lived in different cities altogether subjected her to harassment for dowry. Such allegations are found to be incongruous and difficult to comprehend. Speaking through Justice Sanjay Kumar, the scope of Section 482 Cr.P.C. qua quashing of FIR stemming from offence under Section 498-A was also deliberated upon and the following observations were made:

“12. The contours of the power to quash criminal proceedings under Section 482 Cr.P.C., 1973 are well defined. In V. Ravi Kumar vs. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu and others [(2019) 14 SCC 568], this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to



adjudge the correctness of the allegations in the complaint. In M/s. Neeharika Infrastructure (P). Ltd. v. State of Maharashtra and others [Criminal Appeal No.330 of 2021, decided on 13.04.2021], a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr.P.C., 1973 It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab (AIR 1960 SC 866) and State of Haryana and others v. Bhajan Lal and others [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

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15. Earlier, in Neelu Chopra and another v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

16. Of more recent origin is the decision of this Court in Mahmood Ali and others v. State of U.P. and others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C., 1973 Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C., 1973 or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”



9. Time and again, the Courts have highlighted the tendency of roping in all and sundry members of the husband's family in cases filed under Section 498-A of the IPC. Recently, a two Judge bench the Hon'ble Supreme Court in ***Mahalakshmi and others v. State of Karnataka Criminal Appeal No. 494/2023*** decided on 30.11.2023 quashed the criminal proceedings under Section 498-A of the IPC against the husband's sisters and cousins and observed that if the allegations are not serious and substantiated, and there is no clear evidence of accused's involvement in the complainant's marital life, they cannot be implicated under Section 498-A of the IPC.

10. It appears that respondent No.2 and her husband barely stayed at her matrimonial home post marriage as they moved to Gurugram, where both of them are employed. Nothing available on the record has assisted in establishing involvement of the petitioners in the marital life of respondent no.2. The car allegedly demanded by the petitioners as dowry was purchased in the name of respondent No.2 as evident by booking receipt dated 23.09.2017(Annexure P-6), payment receipt dated 01.11.2017(Annexure P-7) and vehicle tax invoice dated 11.11.2017(Annexure P-8). Moreover, it remains unproved that the gifts exchanged during the wedding were presented in lieu of demands from the petitioners. Finally, the gifts exchanged have been deposited by the husband of respondent No. 2 with the police as reflected by the seizure memo dated 14.09.2019. The entrustment and demand of dowry articles or *stridhan* has not been established based on the narrative put forward by the prosecution. The vague and omnibus allegations levelled against the petitioners seem to be motivated by mere private spite and vendetta.

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11. Accordingly, in view of the facts and circumstances of the case, the present petition is allowed and FIR No. 88 dated 29.07.2019 registered under Sections 406, 498-A of the IPC at Women Police Station Section 17, Chandigarh is hereby quashed qua the petitioners.
12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)

JUDGE

24.04.2024

Ajay Goswami

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