

231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7723-2022

Date of decision: 08.04.2024

Jasvir Kaur and another

...Petitioners

versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner

Mr. N.S. Dandiwal, Advocate
for respondent no.2

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been preferred under Section 482 of the Cr.P.C. seeking quashing of the impugned order dated 03.02.2020 (Annexure P-4), passed by the learned Sub-Divisional Judicial Magistrate, Nihal Singh Wala, in the case arising from criminal complaint, bearing no. COMI/15/2019 filed under Sections 498-A, 406, 506 and 34 of the IPC, whereby the petitioners have been summoned to face trial under Sections 498-A, 406 read with Section 34 of the IPC.

2. The marriage between respondent no. 2-complainant and Sandeep Singh was solemnised on 02.12.2012 in accordance with Sikh rites and rituals. However, due to matrimonial dispute, the criminal complaint (*supra*) was registered on the allegations that the husband and the in-laws of respondent no. 2 i.e. the petitioners, harassed her for dowry and turned her out of the matrimonial home.

3. After the wedding, respondent no.2-complainant and Sandeep Kumar resided together and a daughter was born out of wedlock on 16.10.2013. It is

alleged that the accused were not satisfied with the dowry articles given by the parents of the complainant due to which they started to humiliating and taunting respondent no. 2-complainant. It is further alleged that the petitioners used to interfere in the family matters of respondent no. 2-complainant and as a result there was perpetual discord between the complainant and her husband. Moreover, as per the complaint, when respondent no.2-complainant was pregnant in the month of July, 2013, all the accused mercilessly beat her and demanded a car and when she refused to give in to their demands, she was turned out of the matrimonial house.

4. Learned counsel for the petitioners contends that the complaint (*supra*) has been filed by respondent no. 2 in order to pressurize the family of Sandeep Kumar so as to derive some monetary benefit out of it. Both the petitioners reside separately at their Railway Quarters, which has been allotted to petitioner no.2-accused, and they have no concern with the matrimonial life of respondent no.2-complainant. He further submits that the petitioners have been maliciously roped in so that the job of petitioner no.2-accused can be put in danger on the basis of vague allegations.

5. Having heard the learned counsel of the parties and after perusing the record with their able assistance, it transpires that petitioner no.2 is the brother of Sandeep Kumar and petitioner no.1 is the wife of petitioner no. 2. It is evident that all the allegations are generic in nature and no specific allegations have been levelled against the petitioners. 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.”

6. 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...”

7. 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.”

8. 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.

9. It appears that petitioner no. 2 is an employee of Indian Railways who was earlier serving at Delhi Division and vide letter, bearing no. 293-E/53/PM/P2A dated 29.06.2009, he joined as Pointsman B at Chaukiman, which comes under the Ferozpur Division. Both the petitioners are residing at the Indian Railways allotted accommodation and do not have regular contact with respondent no. 2-complainant. Additionally, apart from general and vague allegations of meddling in the martial life of respondent no.2-complainant and one instance of physical assault which occurred more than a decade ago, no specific role is attributable to the petitioners. In view of the same, this Court is of the considered view that no nexus has been established between the petitioners and the alleged harassment meted out to respondent no. 2.

10. Accordingly, this petition is allowed and the impugned order dated 03.02.2020 is hereby quashed qua the petitioners. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

08.04.2024
Ajay Goswami

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