

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

242. CRM-M No.15013 of 2021 (O&M)
Reserved on:03.04.2024
Pronounced on:05.04.2024

Davinder Pal and another ... Petitioners

Versus

State of U.T., Chandigarh and others ... Respondents

2. CRM-M No.9842 of 2022 (O&M)

Paramveer Lahar and another ... Petitioners

Versus

State of U.T., Chandigarh and others ... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishal Sharma, Advocate
for the petitioners.

Mr. H.S. Gharoo, Advocate for
Mr. Amit Kumar Goyal, APP, U.T., Chandigarh.

Mr. Vishal Gautam, Advocate
for respondent No.4.

HARPREET SINGH BRAR, J.

1. This order of mine shall dispose of the petitions bearing CRM-M Nos.15013 of 2021 and 9842 of 2022 as in both the petition prayer is made to quash FIR No.40 dated 30.05.2020 registered under Sections 406 and 498-A IPC at Women Police Station, Sector 17, Chandigarh and all subsequent proceedings arising therefrom.
2. The FIR (supra) was registered at the instance of respondent No.4-complainant alleging therein that matrimonial alliance between daughter of the complainant and younger son of petitioners in CRM-M No.15013 of 2021 was finalized in December 2017 and their marriage was solemnized on 08.03.2018

at Hotel Western Court, Sector 43, Chandigarh according to Hindu rites and customs. The complainant had spent an amount of Rs.25 lakhs on the marriage of his daughter and gifts and dowry items were given to the accused persons and their relatives as per the demand of the accused. The daughter of the complainant stayed in her matrimonial home from 08.03.2019 to 26.03.2019 and thereafter, left to Australia on 29/30.03.2018. During her stay daughter of the complainant was forced to obtain PR in Australia immediately to call and settle her husband there. The son-in-law of the complainant namely Prince Lahar (Petitioner no. 2 in CRM-M-9842-2022) went Australia on visitor's visa and started living with his elder brother namely Param Veer Lahar. The accused namely Param Veer Lahar @ Rocky, Dolly and Prince Lahar started torturing daughter of the complainant mentally and physically and used to give her merciless beatings. The daughter of the complainant narrated the incidents of ill-treatment given to her by accused persons to her parents and the complainant went to Melbourne (Australia) on 10.09.2018 and stayed there in the house of his elder daughter and met accused persons several times to sort out matrimonial differences between her daughter and accused-Prince Lahar. The accused persons assured the complainant to not to ill-treat his daughter. However, during the intervening night of 05/06.10.2018, accused persons gave merciless beatings to his daughter. The matter was reported to the Australian police and daughter of the complainant was taken to the hospital for treatment. Thereafter, she started living as paying guest along with her colleague w.e.f. 06.10.2018. A complaint was given to the Magistrate Court under Family Violence Protection Act, 2008 by daughter of the complainant against her husband and his elder brother. The Family Court vide its orders dated 02.11.2018 and 30.11.2018 had restrained the accused-petitioners in CRM-M

No.9842 of 2022 not to interfere in the personal life of each other upto 29.11.2019. On 13.11.2018, the complainant again went to Melbourne, Australia to see his daughters and made efforts to sort out the matrimonial dispute of his daughter but all in vain. It was alleged in the complaint that cheating was committed upon them as the accused persons falsely proclaimed that Prince Lahar is a graduate and doing business of finance. All accused persons had taken various dowry articles, *shagun* in cash and clothes and sweets during the period from 01.02.2018 to 03.10.2018. A prayer was made to register a criminal case against accused persons.

3. Learned counsel appearing for the petitioners in both the petitions contended that petitioners have been implicated in a false and frivolous case. All incidents, if any, had happened in Australia and the local police under political pressure of some local leader have filed a complaint through respondent No.4-complainant. He further contends that respondent no. 4 has admitted the following in para 2 of the reply:

“...the answering respondent No.4 went to Australia on 10.09.2018, to solve the matrimonial disputes between his daughter and son-in-law, when the daughter of the answering respondent No.4 had complained and narrated the story of ill treatment faced by her from the accused persons, during the stay period with her husband in house of the elder brother of her husband at Australia. The answering respondent met his son-in-law and his elder brother and his wife, on various occasions at Australia and they all felt sorry for the rude and cruel behaviour with his daughter and assured to keep his daughter in a decent and cool atmosphere and they all given an undertaking that they

will not give any maltreatment, to his daughter.”

4. In fact, the younger son of petitioners in CRM-M No.15013 of 2021 went to Australia where he met daughter of the complainant, who was there on study visa. They liked each other and therefore, their marriage was solemnized on 08.03.2018. It is further contended that petitioners in CRM-M No.15013 of 2021 never lived together with their son and daughter-in-law, as they left Australia after few days of marriage and all the incidents had happened in Australia only. Furthermore, their younger son has already taken divorce from his wife Shivani at Australia from Federal Circuit Court of Australia on 16.05.2020 on the ground of irretrievable break down. In this regard, reliance is placed upon the copy of decree of divorce granted by the Federal Circuit Court, Australia, which is attached with the petition as Annexure P-3. It is also contended that the FIR (supra) was lodged on 30.05.2020 i.e. after passing of the decree of divorce on 16.05.2020. No cause of action arose in India for launching prosecution against the petitioners. The allegations levelled in the FIR are general and vague and no specific roles have been attributed to the petitioners with respect to cruelty subjected upon the daughter of the complainant and demand of dowry. There is not even a whisper with regard to cruelty meted to the daughter of the complainant. Moreover, the daughter of the complainant has remarried. In support of his arguments, he relied upon the judgment passed by the Hon'ble Supreme Court in ***Preeti Gupta and another Vs. State of Jharkhand and another 2010 (4) RCR (Criminal) 45.***

5. Per contra, leaned counsel appearing for the respondent-State submitted that the FIR (supra) was registered after conducting an inquiry into

the matter. There are specific allegations levelled against the petitioners, which are sufficient to launch a prosecution against them.

6. Learned counsel appearing for respondent No.4 in CRM-M No.15013 of 2021 contended that the petitioners with a dishonest intention misrepresented that the petitioner No.2-Prince Lahar in CRM-M No.9842 of 2022 was a graduate and doing the business of finance so that marriage between Prince Lahar and Shivani, daughter of the complainant, could be finalized and therefore, they committed cheating upon them. It is further contended that Prince Lahar had assaulted Shivani as is evident from discharge summary of Dandenong Hospital Emergency Department, Dandenong Victoria, Australia, which is attached as Annexure R-4/2 attached with the reply filed by respondent No.4. Further an intervention order dated 30.11.2018 (Annexure R-4/3) was passed against Prince Lahar by the Magistrates Court Family Violence Protection Act, 2008.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. Petitioner No.1 in CRM-M No.15013 of 2021 has died during the pendency of the said petition and therefore, proceedings qua him stand abated.

9. Admittedly, daughter of the complainant had left for Australia after few days of marriage and the matrimonial dispute arose at Australia. The larger part of offence has been committed only in Australia. Furthermore, Prince Lahar-petitioner No.2 in CRM-M No.9842 of 2022 has taken divorce from daughter of the complainant vide decree of divorce passed by the Federal Circuit Court at Australia. A perusal of the decree of divorce dated 15.04.2020 indicates that it was obtained from the Federal Circuit Court of Australia on the ground of irretrievable broken down of marriage. There is no mention of

cruelty subjected to the daughter of the complainant in the said decree. The marriage was solemnized on 08.03.2018 and Prince Lahar went to Australia on 27.04.2018 whereas the restraint order on the application of daughter of the complainant was filed on 30.11.2018 i.e. after a period of 7 months of arrival of Prince Lahar at Australia. The degree of divorce was obtained on 15.04.2020 whereas the FIR was lodged on 30.05.2020 in India, despite the fact that all the incidents as alleged happened in Australia. A perusal of discharge summary (Annexure R-4/2) reveals that Shivani reported that she and her husband had arguments in the past but this was the first time that he assaulted her but she denied any thoughts to harm self. The impression recorded in the discharge summary is reproduced as under:-

“Impression: Situational crisis in the context of argument with husband and his family. Nil acute psychiatric issues evident requiring further mental health intervention.

Police believe that the patient got the knife and harmed herself as that is the version of the story that her husband and brother-in-law report.”

Further, a perusal of the FIR indicates that the ingredients necessary for establishing offence of cheating i.e. fraudulent or dishonest intention from the very inception are missing and such a culpable intention right at the beginning cannot be presumed from failure to keep promise subsequently. Moreover, FIR (*supra*) is registered only under Section 406 and 498-A of the IPC and all the incidents of cruelty mentioned in the same have taken place in Australia. As such, it is fully established that both the matrimonial dispute had arisen and the divorce was obtained in Australia. Reliance in this regard can be placed on the judgment rendered by a two Judge Bench of the Hon’ble Supreme Court in

Harmanpreet Singh Ahluwalia Vs. State of Punjab (2009) 7 SCC 712,

wherein, speaking through Justice S.B. Sinha, the following was held:-

“32. Furthermore, the larger part of offence, if any, has been committed only in Canada. Why the father of Respondent 3 had to come from Canada to Jalandhar to lodge an FIR is difficult to comprehend. Respondent 3 and the first informant do not say that the inquiry report submitted by the Superintendent of Police on the representation made by Appellant 2 was incorrect. It has also not been stated that as to on what material, the charge-sheet had been submitted. We, in the peculiar facts and circumstances of this case, have absolutely no doubt in our mind that the allegations contained in the FIR had been made with an ulterior motive to harass the appellants. Continuance of the criminal proceeding against them would, therefore, amount to abuse of process of the court.”

10. A perusal of the FIR (supra) indicates that there is no specific role attributed to the petitioners except casual reference of their names mentioned in the complaint, which has formed the basis of registration of the FIR (supra). There is a tendency to involve the entire family members in the domestic quarrel, which erupts between the husband and wife and therefore, without allegation of active involvement in the matter, cognizance against them is not justified. In order to prosecute the near and dear relatives of the husband of the complainant, the allegations ought to be specific and not omnibus and vague. A two Judge Bench of the Hon’ble Supreme Court in ***Geeta Mehrotra Vs. State of U.P. (2012) 10 SCC 741*** speaking through Justice Gyan Sudha Misra has held as under:-

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but

mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

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 [(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 disputes 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.”

A two Judge Bench of the Hon'ble Supreme Court in ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others (2022) 6 SCC 599*** speaking through Justice Krishna Murari has held as under:-

“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.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

11. A two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta*** (supra) 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.”

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...”

12. 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.”

13. In view of fact that the relevant parties are settled in Australia, which is also the place of occurrence of the alleged incident, and that the daughter of complainant-respondent no. 4 has already remarried as well as the settled law, this Court is of the considered opinion that no useful purpose would be served in continuing criminal proceedings qua the petitioners. Therefore, both petitions are allowed and FIR No.40 dated 30.05.2020 registered under Sections 406 and 498-A IPC at Women Police Station, Sector 17, Chandigarh (Annexure P-1) and all subsequent proceedings arising therefrom are quashed qua petitioner No.2 in CRM-M No.15013 of 2021 and petitioners in CRM-M No.9842 of 2022.

14. Pending misc. applications, if any, stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

April 05, 2024
Pankaj*

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