

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-8840-2024 (O&M)
Date of order: 20.02.2024

Rajni Mittal & Others

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Akashdeep Singh, Advocate
for the petitioners.

Nidhi Gupta, J.

Present petition under Section 482 Cr.P.C. is filed seeking quashing of FIR No.174 dated 12.04.2022 registered under Sections 498-A, 406, 323, 313 and 506 IPC at Police Station City Mandi Dabwali, District Sirsa (Annexure P1); and report under Section 173(2) Cr.P.C. (Annexure P6); and all other proceedings arising therefrom qua the present petitioners.

2. Petitioners before this Court are the distant relatives of the husband of the daughter of the complainant. Petitioner No.1 is the Maasi-in-law; petitioner No.2 is also the Maasi-in-law; petitioner No.3 is the married sister-in-law/Nanad; petitioner No.4 is the Nandoi of the alleged victim/daughter of respondent No.2/complainant; and petitioner No.5 is the mother-in-law of petitioner No.3.

3. Learned counsel for the petitioners inter alia submits that the daughter of respondent No.2 (namely Tanvi Bansal) was married to

the nephew of petitioner No.1 (namely Prashant Gupta), on 19.10.2018. Said Tanvi Bansal had come from Australia for her wedding on 10.10.2018; and after solemnization of her marriage on 19.10.2018, she stayed in her matrimonial home at Patiala for 2 months and flew back to Australia on 19.12.2018. Her husband Prashant Gupta followed her to Australia on 30.04.2019. Due to matrimonial discord between both of them, they lodged complaints against each other on 06.04.2022 (Annexure P2) and (Annexure P3). Thereafter, on 08.04.2022 present complainant/respondent No.2 herein made a complaint to the Superintendent of Police, Sirsa against the husband, who at that time and even presently, is residing in Australia; mother-in-law; brother of mother-in-law (Rajeshwar Gupta) of the alleged victim, who are residents of Patiala (all these three accused persons are non-petitioners herein); and the present 5 petitioners, on the basis of which, the present FIR has been filed.

4. Learned counsel vehemently argues that the petitioners are distant relatives of husband of the alleged victim. The petitioners have never lived with the victim in her matrimonial home. In fact, the victim herself has stayed in the matrimonial home at Patiala only for 2 months after marriage, whereafter, she went to Australia. Moreover, the allegations pertain to an alleged incident of 10.04.2020 i.e. 2 years prior to registration of the present FIR on 12.4.2022. It is submitted that even a perusal of statement dated 22.04.2022 (Annexure P8) of the alleged victim under Section 161 Cr.P.C., reveals that the same pertained largely to the conduct of her husband after reaching Australia and has no relation with the present petitioners. Learned counsel states that now vide decree dated

18.07.2023 (Annexure P11) passed by Family Court, Australia, Tanvi Bansal and Prashant Gupta have even been granted divorce on grounds of irretrievable break down of the marriage. It is argued that it is, therefore, clear that general and omnibus allegations have been made against the petitioners, who had no connection whatsoever with the alleged victim. It is accordingly, prayed that the present FIR be quashed qua the present petitioners. Learned counsel relies upon judgments of Hon'ble Supreme Court in **"Kahkashan Kausar @ Sonam & Others Vs. State of Bihar & Others"** Law Finder Doc ID # 1941423; **"Geeta Mehrotra & Another Vs. State of UP & Another"** Law Finder Doc ID # 397283; **"Preeti Gupta & Another Vs. State of Jharkhand & Another"** Law Finder Doc ID # 214039; and **"K. Subba Rao & Others Vs. The State of Telangana & Others"** 2018 (14) SCC 452.

5. Notice of motion.

6. Mr. Ranvir Singh Arya, Addl. AG Haryana accepts notice on behalf of respondent No.1/State.

7. Mr. Rishab Dhiman, Advocate, accepts notice on behalf of respondent No.2 and files Power of Attorney, which is taken on record.

8. Learned State Counsel supported by learned counsel for respondent No.2/complainant vehemently opposes the prayer made on behalf of the petitioners and submits that in the FIR, specific allegations have been made against the present petitioners to the effect that *"...7 tolas of gold bracelet to accused No. 3 to 8 were given at the time of milni..... all the accused, in collusion with one another, used to instigate accused Prashant Gupta and raise demand of dowry from me through my*

daughter..... all the accused became so emboldened that whenever they used to come to me in Mandi Dabwali, they openly used to demand one thing or the other, whereupon I used to give cash or some article as dowry to accused in order to settle the matrimonial home of my daughter...”

Similar such allegations against all the accused, including the petitioners, are made repeated throughout the FIR.

9. Learned counsel for respondents further refer to statement of Rajeev Kumar Bansal, close relative of the complainant/respondent No.2, dated 19.04.2022 (Annexure P4), wherein he has stated as follows:-

“...On 10.04.2020 Tanvi’s mother-in-law Alka Devi and one relative Rajeshwar had come to house of my chacha Surinder Kumar in Mandi Dabwali and had demanded Rs. 10 lacs for paying the loan of car. All are greedy of dowry. Stringent legal action be initiated against all of them. Stringent legal action be initiated Tanvi’s husband Prashant Gupta, mother-in-law Alka Devi, nanad Palvi, nandoi and other relatives Kiran Vanda Devi, Rajni and Rajeshwar...”.

10. Reference is also made to statement dated 20.04.2022 (Annexure P5) of Sunil Kumar, neighbor of the complainant, wherein he has stated as under:-

“..On 10.4.2020, Tanvi’s mother-in-law and one relative came to house in Mandi Dabwali and demanded Rs. 10 lacs and to repay the loan of the car. Tanvi’s husband Prashant Gupta, mother-in-law, nanad and other relatives are greedy of dowry..”.

11. Learned counsel for the respondents further state that the present is the second petition filed on behalf of the petitioners for quashing the present FIR; and the first petition with the same prayer has been dismissed as withdrawn by a Co-ordinate Bench of this Court vide order dated 18.08.2022 (Annexure P12) passed in CRM-M-36244-2022, with liberty to the petitioners *“to avail alternative remedies as available to them under the law”*. It is contended that the present petition is premature as the petitioners should raise the present pleas before the learned trial Court as are being taken before this Court. It is submitted that the first petition was dismissed on account of this fact only, and therefore, liberty was granted to the petitioners to avail alternative remedies.

12. No other argument is made on behalf of the parties.

13. I have heard learned counsel for the parties.

14. It cannot be denied that much water has flown under the bridge as the alleged victim – Tanvi Bansal and her husband – Prashant Gupta have been granted divorce by a Family Court in Australia. No doubt, the petitioners herein are distant relatives of the said Prashant Gupta. However, merely being a distant relative, does not automatically absolve the petitioners of all allegations. Perusal of the record of the case reveals that serious and specific allegations have been made against the present petitioners inasmuch as they have been alleged to be active parties in instigating the husband of the victim for demanding dowry from the victim and her family. Though the said allegations are denied by the petitioners, but these are disputed questions of fact, which can only be determined by the learned trial Court by leading evidence before it. Accordingly, prima

facie this Court is not inclined to quash the present FIR merely on account of the fact that the petitioners are distant relatives of the husband of the victim; especially in view of the fact that active role has been attributed to them of conniving and cooperating with the other accused, not just in demanding dowry but also in instigating the husband of the victim to demand dowry from the victim. In this regard allegations made in Para 8 of the FIR against all the accused are to be noted which reads as under:-

“8. That on 10.04.2020, accused No.2 to 8, on the instigation of accused No.1 Prashant, came to my house in Innova vehicle and started demanding Rs. Ten lacs and payment of car loan in the shape of dowry of my daughter Tanvi. When I refused to accept their demand, then accused No.2 and (Ta) 8 became infuriated and started giving abuses in the name of mother sister and issuing threats that they would kill my daughter Tanvi in some manner and would perform second marriage of Prashant Gupta for taking hefty dowry and that if I initiated any legal action against them, they would kill me. Accused No.8 caught hold of my neck and other accused gave slaps and fist blows. When I raised an alarm saying, “Mar diya, mar diya” (killed-killed), then accused went away in their vehicle and while going they stated that they have much influence in Punjab and Haryana, due to which nobody can cause any harm to them because Alka has foreign passport and she would flee away abroad. It is, therefore, requested that keeping in view that above mentioned facts in the complaint, above said accused be called and FIR be registered against the accused immediately. The istridhan of my daughter Tanvi may be got recovered from accused and got delivered to me. The life and property of myself and my daughter Tanvi be protected and justice be imparted to me”.

15. In my considered view, the above allegations cannot be ignored, let alone quashed at this initial stage. This Court is well aware that provision of Section 498 – A IPC is often misused to embroil all relatives of the husband in false cases by making general omnibus allegations against one and all. However, for the reasons stated above, I find the present case to be on a different footing. It can also not be brushed aside that upon investigation, challan has been presented against the present petitioners as well. I also find merit in the contention of the counsel for the respondents that this petition is premature and the petitioners should raise these pleas before the Id. Trial Court, if so advised.

16. Accordingly, in the facts and circumstances of the case, the present petition stands **dismissed**.

17. Pending application(s) if any also stand(s) disposed of.

18. However, nothing stated above shall be construed as an expression of opinion on the merits of the case.

20.02.2024		(Nidhi Gupta)
Sunena		Judge
Whether speaking/reasoned	Yes/No	
Whether reportable	Yes/No	