

**245 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-10368-2021
Reserved on: 19.07.2024
Pronounced on: 22.07.2024

Paramjit Paul and anotherPetitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

Mr. Jaswinder Singh Rana, Advocate and
Mr. Sandeep Arora, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J.

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR, bearing No. 213 dated 01.10.2020 (Annexure P-1) registered under Sections 406 and 498-A of the IPC at Police Station Goraya, Jalandhar Rural and all the consequential proceedings arising therefrom.

2. Briefly, the facts as alleged are that the marriage between Manish Pawan, who is the son of the petitioners, and the elder daughter of respondent No.2- Gurpreet Kaur was solemnised on 21.03.2018. The daughter of respondent No.2 is a permanent resident of Canada. She stayed in the matrimonial home for a period of 1 month after the wedding, during which she was subjected to taunts and harassment for not bringing sufficient dowry. Subsequently, she returned to Canada. Thereafter, Manish Pawan by employing fraudulent means and using the documents of Gurpreet Kaur without her

permission obtained the visa for Canada. Upon reaching there, he started

harassing and threatening Gurpreet Kaur. Further, petitioner No.1 started demanding money telephonically from Gurpreet Kaur for the purpose of constructing a house. Manish Pawan is a neighbour of Gurpreet Kaur in Canada and as a result she is living in great fear. Manish Pawan kept on torturing her and even showed up to her place of work.

3. Learned counsel for the petitioners inter alia contends that the petitioners are the father-in-law and the mother-in-law of Gurpreet Kaur. Gurpreet Kaur is a Permanent Resident of Canada while the petitioners reside in India. She only stayed at her matrimonial house for 20 days before she moved to Canada. She never contacted the petitioners and whenever she returned to India she mostly stayed with her parents and hardly visited the petitioners. The petitioners have no role to play in the matrimonial life of their son and Gurpreet Kaur and they have only been roped in by the complainant out of personal spite. In fact, Gurpreet Kaur after leaving for Canada started ignoring the son of the petitioners and she refused to join his company. Ultimately, the son of the petitioners was constrained to file for divorce before the Superior Court of Justice, Ontario, Canada. The instant FIR has been registered as a counter blast to said divorce petition.

4. Having heard the learned counsel for the parties and after perusing the record of the case with his able assistance, it transpires that the only specific allegation and incident of harassment qua petitioner No.1 took place when the daughter of the complainant was in Canada and cognizance of the same could not have been taken by the police in India. Chapter XIII of the Cr.P.C. deals with the jurisdiction of the criminal courts in inquiries and trials. Section 177 Cr.P.C. states that every offence shall ordinarily be inquired into and tried by a

Court within whose local jurisdiction it was committed. Section 178 of Cr.P.C. reads as under:

"178. Place of inquiry or trial.

- (a) When it is uncertain in which of several local areas an offence was committed, or*
- (b) where an offence is committed, partly in one local area and partly in another, or*
- (c) where an offence, is a continuing one, and continues to be committed in more local areas than one, or*
- (d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas."*

In order to engage an investigating agency to inquire into the alleged offence, the territorial jurisdiction must be established, failing which would render the FIR to be not maintainable. Reliance in this regard may also be placed on judgments of this Court in ***Ashish Jain vs. State of Haryana 2020 (2) R.C.R. (Criminal) 240, Partap Singh vs. State of Punjab 2010 (14) R.C.R. (Criminal) 465, Bahadur Singh vs. State of Punjab 2010 (3) R.C.R. (Criminal) 252 and Surindervir Singh vs. State of Punjab 2020 (3) R.C.R. (Criminal) 265.*** Moreover, as mandated by Section 188 of the Cr.P.C, when the alleged offence is committed outside India, criminal prosecution cannot be initiated in India without obtaining sanction by the central government. Citing the judgment rendered by the Hon'ble Supreme Court in ***Sartaj Singh vs. State of Uttarakhand (2022) 13 SCC 136,*** a Co-ordinate bench of the Kerala High Court in ***Darvin Dominic vs. State of Kerala*** bearing case number *Crl. MC No. 2448 of 2023* decided on 06.06.2024 has quashed the final report indicating offence under Section 498-A IPC in view of the fact that the alleged incident, in its entirety, has occurred abroad.

5. The son of the petitioners as well as the daughter of respondent No.2 are residing in Canada. The allegations levelled by respondent No.2 in

FIR(supra) do not find any mention in the divorce proceedings initiated before the Canadian Court. The daughter of respondent No. 2 stayed at the matrimonial home for a month and left for Canada on 21.04.2018. The FIR, however, was registered on 01.10.2020. In the intervening period there is nothing to show that the petitioners resided with the daughter of respondent No.2 and inflicted cruelty or meted out harassment to her. This further makes allegations qua harassment for dowry against them rather unlikely.

6. Furthermore, the allegations levelled against the petitioners do not indicate commission of an offence as defined under Section 406 of the IPC. As far as the offence defined under Section 498-A of the IPC is concerned, the allegations are far too vague and general in nature to inspire confidence. A two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta vs. State of Jharkhand (2010) 7 SCC 667*** quashed the complainant 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. Furthermore, 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. In the facts and circumstance of the present case, this Court does not find any reason to allow criminal prosecution to continue against the petitioners. As such, in view of the discussion above, FIR No. No. 213 dated 01.10.2020 registered under Sections 406 and 498-A of the IPC at Police Station Goraya, Jalandhar Rural and all subsequent proceedings arising out of the same are hereby quashed qua the petitioners herein. Petition stands allowed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

22.07.2024
Neha

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