

CRM-M-24188-2018 and one more case -1-

228 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-24188-2018 (O&M)
Date of Decision: 04.12.2024

KESHWI DEVI AND OTHERS ...Petitioners

Versus

STATE OF U.T. CHANDIGARH AND ANOTHER ...Respondents

CRM-M-42940-2016 (O&M)
Date of Decision: 04.12.2024

SADHU RAM ...Petitioner

Versus

STATE OF U.T. CHANDIGARH AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Munish Gupta, Advocate
for the petitioners.

Mr. Anil Kumar Lamdharia, Addl. PP UT Chandigarh.

Harpreet Singh Brar J.(Oral)

1. This order of mine shall dispose of aforementioned two petitions as the impugned FIR is same in both the cases.
2. The petitioners in both the cases are seeking quashing of FIR No. 534 dated 20.10.2012 (Annexure P-1) registered under Sections 406 and 498-A of Indian Penal Code at Police Station Sector-34, Chandigarh and all other consequential proceedings arising therefrom.
3. The marriage between Arvind Kumar and Nidhi Sharma was solemnized on 21.09.2007. However, matrimonial dispute ensued and the FIR (supra) was registered on the allegations that the accused persons harassed Nidhi Sharma i.e. daughter of respondent No. 2, on account of demand of dowry.

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4. Learned counsel for the petitioners *inter alia* contends that petitioners in CRM-M-24188-2018 are mother and brothers and petitioner in CRM-M-42940-2016 is father of Arvind Kumar i.e. husband of Nidhi Sharma-who is daughter of complainant-respondent No. 2 (Usha Sharma). It is further contended that daughter of respondent No. 2 only stayed for a very brief period in the matrimonial home with the petitioners and thereafter, she along with her husband-Arvind Kumar had left for Australia on 30.04.2008 and petitioners and their family members and both Arvind Kumar and Nidhi Sharma have been living separately since then. Even otherwise, vide decree of divorce dated 20.10.2011 (Annexure P-2) obtained by way of mutual consent, both Arvind Kumar and Nidhi Sharma have been separated. It is further contended that neither any specific allegation of demand of dowry nor any specific attribution of money has been alleged against the present petitioners.

5. Per contra, learned State counsel vehemently opposes the prayer made by learned counsel for the petitioner.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioners are family members of Arvind Kumar i.e. husband of complainant's daughter-Nidhi Sharma and only generic and omnibus allegations have been levelled against the petitioners. Moreover, the petitioners have been living separately from Arvind Kumar and Nidhi Sharma since 30.04.2008 i.e. when both of them had left for Australia. 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-



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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 vs. 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 vs. 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 vs. 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. As such, it is evident that the petitioners had no involvement in the matrimonial life of Arvind Kumar and Nidhi Sharma and they have only been roped in the FIR(supra) by respondent No.2, out of personal spite, in order to wreak vengeance upon her in-laws family.

11. Accordingly, these petitions are allowed and FIR No. 534 dated 20.10.2012 (Annexure P-1) registered under Sections 406 and 498-A of Indian Penal Code at Police Station Sector-34, Chandigarh are hereby quashed qua the petitioner(s).

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

(HARPREET SINGH BRAR)
JUDGE

04.12.2024
Ajay Goswami

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