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228 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14975-2019 (O&M)

Date of Decision: 23.10.2024

YOGENDER BHARDWAJ AND ANOTHER

...Petitioners

Versus

PRIYANKA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Sharmila Sharma, Advocate
for the petitioners.Ms. Manisha Rani, Advocate for
Mr. R.N.Lohan, Advocate respondent No. 1.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar J.(Oral)

1. Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of complaint COMI No. 31 of 2018 dated 07.08.2018, titled as ***Priyanka Vs. Yogender and Another (Annexure P-1)*** and the impugned order dated 06.02.2019 (Annexure P-9) passed by learned Judicial Magistrate Ist Class, Jind, whereby petitioners have been summoned under Section 4 of Dowry Prohibition Act, 1961 to face trial.

2. That brief facts of the case are that ring ceremony of petitioner No. 1 and complainant-responndent No. 1 was performed on 12.02.2018 at Deep Palace, Near Sector 11 Safidon Road, Jind in which more than Rs. 60,000/- were spent by complainant's father and he also entrusted Gold ornaments and other articles to the petitioners. After ring ceremony, date of marriage was fixed as 12.03.2018 and prior to 10-12 days

of date of marriage the petitioner No. 2, who is father of the petitioner no.

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1, came at the house of the complainant and asked the father of the complainant to give a Fortuner car to petitioner no. 1 in dowry, which was beyond the capacity of father of the complainant, so he shown his inability to give the said car, upon which petitioner no. 2 forced father of the complainant to give said car and said that if the said car is not given in the marriage to his son they will not bring the *Barat* on 12.03.2018. The complainant, her parents and other family members were stunned with the immediate demand of car and they requested to the accused person that they are not in position to give such costly car in marriage. That on the next day, father of complainant along with his few relatives went to the house of petitioner no. 2 and tried to make him understand for not demanding said car, upon this petitioner no. 2 told that his son is in government service and he deserves taking the said car in marriage and further stated that it is special demand of petitioner no. 1. The father of the complainant and other persons tried their best efforts to make them understand but petitioners were adamant on their demands and then an application was moved to Superintendent of Police, Jind on 08.03.2018 by the family of the complainant but of no use. The accused persons according to their saying did not bring *barat* on 12.03.2018 and hence marriage of the complainant could not be solemnized which ruined the name, image and reputation of the complainant and her parents in the village.

3. Learned counsel for the petitioners submits that enquiry of the complaint (Annexure P-1) was marked to Deputy Superintendent of Police, Jind. Both the parties were joined in inquiry and their statements were

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recorded. After thorough inquiry report was submitted to Superintendent of Police, Jind on 08.10.2018, wherein no evidence of demand of dowry was found. Learned counsel further contends that petitioners never demanded any dowry from the complainant or her family members. It is only on account of mismatching of temperament of both the respondent No. 1-complainant and petitioner No. 1, that the marriage was called off. Moreover, there is no evidence against the petitioners and the allegations levelled in the complaint are vague and unsustainable in the eyes of law. Admittedly, marriage between the complainant and petitioner No. 1 was not solemnized and initiation of criminal process is nothing but an abuse of the process of law being used as a handle to harass the petitioners.

4. Per contra, learned counsel for respondent No. 1 vehemently opposes the prayer of learned counsel of the petitioners and placed reliance upon the judgment of Hon'ble Supreme Court passed in ***S. Gopal Reddy Vs. State of Andhra Pradesh* 1996(3) R.C.R. (Criminal) 153**, judgment of Kerala High Court titled as ***Sunil Vs. State of Kerala* 2013 (121) AIC 687**, Bombay High Court's judgment passed in ***Pandurang Shivram Kawathkar Vs. State of Maharashtra* 2002(1) HLR 106**.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the marriage between the petitioner No. 1 and complainant-respondent No. 1 was fixed but not solemnised as differences arose due to temperamental differences of the couple.



6. Indubitably, prior sanction was not obtained from the District Magistrate or an Authorised Officer of the State Government before invoking the offences alleged under the Act. Section 7 of the Act reads as under:

7. Cognizance of offences.—

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

(b) no court shall take cognizance of an offence under this Act except upon—

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognised welfare institution or organisation;

(c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

Explanation.—For the purposes of this sub-section, “recognised welfare institution or organisation” means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.

(3) Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.” (emphasis added)

This Court is of the considered view that if a certain method is prescribed by law, it must be followed to accomplish the task, necessarily forbidding use of other methods. Reliance in this regard can be placed on the judgment rendered by the Hon’ble Supreme Court in ***Dharani Sugars***



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and Chemicals Ltd. v. Union of India and others (2019) 5 SCC 480.

Furthermore, the Act is a special statute and it is trite law that if a special enactment lays down the provisions regarding procedure that must be adopted for investigation and adjudication of an offence that falls in its purview, general provisions of the IPC or the Cr.P.C. will not be attracted. Reliance in this regard can be placed on on the judgment of the Hon'ble Supreme Court in *Jeewan Kumar Raut and another v. C.B.I (2009) 7 SCC 526* and this Court in *Ajay Kumar Sandhu v. State of Haryana in CRM-M-29708-2014*.

7. In view of the discussion above, the present petition is allowed and complaint bearing COMI No. 31 of 2018 dated 07.08.2018 titled as *Priyanka Vs. Yogender and another (Annexure P-1)* and impugned order dated 06.02.2019 (Annexure P-9) passed by learned Judicial Magistrate Ist Class, Jind, whereby petitioners have been summoned under Section 4 of Dowry Prohibition Act, 1961 to face trial dated alongwith all consequential proceedings arising therefrom are quashed/set aside.

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

(HARPREET SINGH BRAR)
JUDGE

23.10.2024

Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>