

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-30471-2017(O&M)

Date of order: 21.03.2024

Jagpal Singh Rang

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mohd. Yousaf, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, AAG Haryana.

Mr. Nakul Sharma, Advocate
for respondent No.2.

Nidhi Gupta, J.

Present petition under Section 482 Cr.P.C. is filed seeking quashing on merits of FIR No.120 dated 03.09.2016 (Annexure P3) registered under Sections 406 and 498-A IPC at Police Station Women Cell, Jalandhar, District Jalandhar; and report under Section 173 Cr.P.C. dated 22.05.2017 (Annexure P4) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner/accused no.3 inter alia submits thatpetitioner is the natural-born father-in-law of the complainant/respondent No.2 herein. It is submitted that the petitioner had given away his son namely Chandeeep Singh Sandhu/husband of respondent No.2 in adoption to one Joginder Singh Sandhu. Ld. Counsel clarifies that the petitioner had a dispute with his wife and as such, the

petitioner has had no contact with either his wife or their son namely Chandeeep Singh Sandhu since 1994. During this entire time, Chandeeep Singh Sandhu has resided with wife of the petitioner throughout. In this regard, learned counsel refers to Annexure P1, which is the passport of Chandeeep Singh Sandhu wherein name of father/legal guardian of Chandeeep Singh Sandhu is shown as "Joginder Singh". Learned counsel also refers to Annexure P2, which is the Marriage Certificate dated 29.12.2011 of Chandeeep Singh Sandhu and respondent no.2, wherein too in Column No.8, name of father of Chandeeep Singh Sandhu is shown as "Joginder Singh". In the FIR itself, it has been written that "*Chandeeep Singh Sandhu son of Jagpal Singh Rangi, Matbana son of Shri Joginder Singh Sandhu*". Learned counsel submits that accordingly, it is clear that the petitioner had given away the said Chandeeep Singh Sandhu in adoption to Joginder Singh Sandhu. It is further contended that the petitioner has no contact or connection or concern with the said Chandeeep Singh Sandhu since 1994. It is stated that name of the petitioner has been included in the FIR only on the ground that the petitioner is the natural-born father of the husband of the complainant. Otherwise, petitioner has no connection whatsoever with either the complainant or her husband.

3. It is further submitted that Chandeeep Singh Sandhu was married to respondent No.2 on 11.12.2011 in Australia. The petitioner was not present at the said marriage ceremony. Thereafter, a wedding ceremony was performed in India as well according to Indian rites and rituals in 2015, and the petitioner was not present in the same as well. It is reiterated that the petitioner has been implicated in the present case only

because he is the natural-born father of Chandeeep Singh. It is argued that it is for this reason that no allegation whatsoever has been leveled against the petitioner in the FIR. The allegations contained in the FIR pertain only to Chandeeep Singh Sandhu and his mother. It is further contended that in view of the fact that marriage took place in Australia, therefore, question of entrustment of any dowry articles to the petitioner would, in any event, not arise.

4. Leaned counsel for respondent No.2/complainant is unable to controvert the above said assertions made on behalf of the petitioner.

5. Learned State Counsel has submitted on instructions that charges were framed in the present case on 26.10.2022. No witness has been examined so far and next date of hearing before the learned trial Court is 04.04.2024.

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

7. I have heard learned counsel for the parties and perused the case file in detail.

8. Perusal of record bears out all the above said assertions made on behalf of the petitioner. Annexure P1, which is the true typed copy of passport of Chandeeep Singh Sandhu shows that in the column of father, name of "Joginder Singh" is mentioned. Annexure P2, which is photocopy of marriage certificate of Chandeeep Singh Sandhu also reveals that in column No.8 against name of father, name of "Joginder Singh" is mentioned. Perusal of FIR (Annexure P3) shows that allegations in the said

FIR pertain mainly to Chandeeep Singh Sandhu alleging that he was in an illicit relationship with one other woman as a result of which he started harassing respondent No.2. In the whole FIR save for the mention of name of the petitioner as 'father of Chandeeep Singh Sandhu', not a single allegation has been made against him. Although FIR shows that the petitioner has been arrayed as accused No.3 however, in the FIR itself there is not a single allegation against him. Only general and omnibus allegations have been made. Not a single/specific allegation has been made against the petitioner. The allegations are mainly only against Chandeeep Singh Sandhu/husband of respondent No.2.

9. Furthermore, perusal of challan filed under Section 173 Cr.P.C. (Annexure P4) also shows that even after completion of investigation, no allegation has been made therein qua the petitioner. Clearly therefore, name of the petitioner has been included in the challan mechanically without any application of mind; and without adverting to the fact that in the FIR itself, not a single allegation has been made against the petitioner. It has only been routinely and generally noted in the Challan that the petitioner along with other accused "*have been found to mentally and physically harass and keep her istridhan in their possession...*", without mentioning any specific date, time or place of incident.

10. The Hon'ble Supreme Court in "**Kahkashan Kausar@ Sonam & Others Vs. State of Bihar & Others**" Law Finder Doc ID # 1941423 has categorically held that "*general and omnibus allegations cannot manifest in a situation where relatives of complainant's*

husband are forced to undergo trial - FIR liable to be quashed". Relevant

Paras 12 and 17 of **KahkashanKausar** (supra) read as under:-

"12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives."

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*"17. Recently, in **K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452**, it was also observed that:-*

"6. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.""

11. The above view has been reiterated by the Hon'ble Supreme Court in **"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, Law Finder Doc ID # 1141380.

12. Reference may also be made to judgment of the Hon'ble Supreme Court in **'Social Action Forum for Manav Adhikar & Anr. v. Union of India, Ministry of Law And Justice & Ors., (2018) 10 SCC 443'**, wherein it was observed:-

"3. Regarding the constitutionality of Section 498A IPC, in **Sushil Kumar Sharma v. Union of India and others**(2005) 6 SCC 281:AIR 2005 Supreme Court 3100, it was held by the Supreme Court:-

"..... The object of the provisions is prevention of the dowry menace. But many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame-work."

13. In view of the facts and circumstances of the case, as noticed here in above, as also in view of the above said unambiguous legal position, the present petition is **allowed**. FIR No.120 dated 03.09.2016 (Annexure P3) registered under Sections 406 and 498-A IPC at Police Station Women Cell, Jalandhar, District Jalandhar; and report under Section 173 Cr.P.C. dated 22.05.2017 (Annexure P4); and all subsequent proceedings arising therefrom, stand quashed qua the petitioner.

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

21.03.2024

Sunena

Whether speaking/reasoned
Whether reportable

(Nidhi Gupta)
Judge

Yes/No
Yes/No