

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-18967-2022 (O&M)
Date of order: 20.02.2024

Pargat Singh & Others

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. G.S. Sandhu, Advocate
for the petitioners.

Mr. Sukhsandesh Singh Chahal, AAG Punjab.

Mr. Sunny K. Singla, Advocate
for respondent No.2.

Nidhi Gupta, J.

Present petition under Section 482 Cr.P.C. is filed seeking quashing of impugned order dated 17.08.2019 passed by learned Judicial Magistrate, 1st Class, Malerkotla (Annexure P7), vide which application moved by respondent No.2 under Section 319 Cr.P.C. has been allowed; and for quashing of judgment dated 04.03.2022 passed by learned Additional Sessions Judge, Sangrur (Annexure P9), vide which the revision filed by the petitioners against the order dated 17.08.2019 has been dismissed.

2. Learned counsel for the petitioner inter alia submits that petitioner No.1 is the Nandoi, petitioner No.2 is the Nanad; petitioner No.3 is the mediator/maternal aunt; and petitioner No.4 is the Nanad of respondent No.2/complainant. It is submitted that respondent No.2 was

married to brother of petitioner No.2 on 18.01.2015. However, due to matrimonial dispute between the two, the petitioners have been falsely implicated in the present case FIR No.71 dated 17.07.2016 (Annexure P-1) u/s 498A, 406 IPC registered at Police Station Sadar, Ahmedgarh, District Sangrur. It is submitted that the allegations made against the petitioners are absolutely false and fabricated as the petitioners have never stayed in the matrimonial home of the complainant. It is stated that this is evident from the Memo of Parties that the petitioners are residents of Patiala and Sangrur whereas the matrimonial home of the complainant was in District Karnal.

3. It is further submitted that after the marriage on 18.1.2015, the husband of the complainant who was a resident of Australia, had left for Australia on 21.2.2015. Thereafter, respondent No.2 moved a vague complaint against her husband, parents-in-law, Jeth and Jethani and the present petitioners. On the basis of the same, an enquiry was conducted in the matter where upon the petitioners were found to be innocent, and therefore, the present FIR was registered only against the husband, father-in-law, mother-in-law, Jeth, and Jethani of the complainant. It is submitted that accordingly, after thorough investigation by the police/Investigating Agency, no offence was made out against the present petitioners; and therefore, the summoning of the petitioners vide the impugned order dated 17.08.2019 (Annexure P7), while allowing the application filed by the complainant under section 319 CRPC, is patently illegal.

4. On the other hand, learned counsel for the complainant has opposed the prayer made on behalf of the petitioners and has stated that serious allegations have been made against the petitioners in the FIR; and therefore, they have been rightly summoned by the Courts below.

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

6. I have heard learned counsel for the parties.

7. Perusal of the record shows that vide order dated 13.5.2022 passed by Co-ordinate Bench of this Court, operation of the impugned orders was stayed.

8. Admitted facts on record are that complainant was married to brother of petitioner No.2 on 18.01.2015. The husband of the complainant left for Australia on 21.02.2015. Thereafter, on 15.02.2016, the complainant filed a complaint before the Senior Superintendent of Police, Sangrur, against her husband, parents in law, brother-in-law/Jeth, sister-in-law/Jethani, and the present petitioners. In the said complaint, enquiry was marked to SP (D) Sangrur and after thorough enquiry, vide report dated 31.05.2016 submitted by SP (D) Sangrur, the present petitioners were found innocent. Accordingly, the FIR No.71 dated 17.07.2016 (Annexure P-1) u/s 498A, 406 IPC was registered at Police Station Sadar Ahmedgarh district Sangrur only against Maninder Singh (husband), Darbara Singh (father-in-law), Amrit Kaur (mother-in-law), Surinder Singh (Jeth) and Paramjeet Kaur wife of Surinder Singh (Jethani). Perusal of the report under Section 173 Cr.P.C. (Annexure P2) also reveals that after a thorough investigation into the matter, the present petitioners

were found to be innocent and have been exonerated. Accordingly, challan was filed only against the husband, parents-in-law, brother-in-law/jeth and sister-in-law/jethani of the complainant.

9. Thereafter, the complainant filed an application under Section 319 Cr.P.C. praying for summoning of the present petitioners, which has been allowed vide the impugned orders. In my view, the said impugned orders are patently illegal as, after presentation of challan, no new evidence has come on record. The only ground on which the learned Courts below have allowed the application under Section 319 Cr.P.C. filed by respondent No.2, was that specific allegations were levelled against the present petitioners. However, perusal of FIR (Annexure P1) reveals that there is no whisper of any allegation regarding any demand of dowry against the petitioners. All the allegations in the FIR pertain to the parents-in-law and the jeth and jethani of the complainant. Only vague, general and omnibus allegations have been made against the present petitioners to the extent that the petitioners No.2, 3 and 4 were present in the matrimonial home of the complainant on 21.02.2015, when the husband of the complainant had to go back to Australia. Besides this, there were no allegations against the petitioners.

10. Moreover, it is admitted fact on record that petitioner No.2 is the married sister of the husband of the complainant. Her marriage was solemnized with petitioner No.1 about 26 years ago. Petitioner No.4 is also married sister-in-law of the complainant and her marriage was solemnized about 20 years ago. They are residing separately in their matrimonial homes which are at a distance of about 100 Kms from Karnal,

which is the matrimonial home of the complainant. Petitioner No.3 is the mother-in-law of petitioner No.4 and maternal aunt of the complainant. Even she is residing in her own house which is at a distance of about 100 Kms. As such, the petitioners have no interference or indulgence in the matrimonial life of the complainant. Moreover, it has come on record that on the date of alleged incident i.e. 21.02.2015, petitioner No.1 was on duty at DCW, Patiala.

11. 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/husband are forced to undergo trial - FIR liable to be quashed"*. Para 12 of **Kahkashan Kausar (supra)** reads 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."

12. 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,

13. Learned counsel for respondent No.2/complainant is unable to controvert the above said factual and legal position before this Court.

14. In view of the above, present petition is **allowed**, and impugned order dated 17.08.2019 passed by learned Judicial Magistrate, 1st Class, Malerkotla (Annexure P7); and order dated 04.03.2022 passed by learned Additional Sessions Judge, Sangrur (Annexure P9), are hereby set aside.

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

20.02.2024

Sunena

(Nidhi Gupta)

Judge

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