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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22114-2019 (O&M)
Date of decision: 25.07.2024

Major Dr. Man Singh and others

...Petitioners

Versus

State of Haryana

...Respondents

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

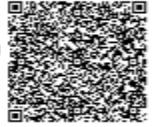
Present: Mr. A.S. Nirmaan, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG, Haryana.

Mr. Nilesh Bharadwaj, Advocate
for the complainant.

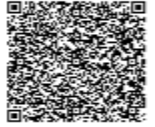
HARPREET SINGH BRAR J.

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking quashing of FIR No.293 dated 28.10.2018 under Sections 406, 498-A of the Indian Penal Code, 1860 (for short ‘IPC’), registered at Police Station Civil Lines, District Rohtak.



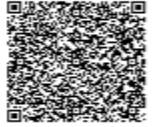
2. Briefly, the facts are that the marriage between petitioner No.1 and the complainant was solemnised on 08.02.2012. On 23.01.2012, on the demand of petitioner No.1, Rs. 7,00,000/- were deposited in his account via RTGS, for the purchase of a car. Petitioner No.1 availed a loan to buy the car and misappropriated the said amount for his personal use. Merely three months after the wedding, the mother-in-law and sister-in-law of the complainant began taunting her for insufficient dowry. After 18-20 days of the wedding, the couple visited the temple of Mata Vaishno Devi, where a quarrel ensued between them causing petitioner No.1 to beat the complainant in the marketplace.

3. Thereafter, petitioner No.1 demanded money from the complainant to purchase a flat in Jaipur, which she did. On 05.07.2014, Rs. 2,00,000/- were also transferred to him via RTGS to furnish the said flat. However, petitioner No.1 continued to physically harass the complainant in Jaipur as well. In November/December, 2015, petitioner No.1 asked the complainant for money in order to purchase a school in Kanwat, Sikar and promised to transfer the same to her name. The complainant arranged for the money, but possession of the school was transferred to brother of petitioner No.1, without her consent. Ultimately on 15.08.2016, the complainant was shunned out of her matrimonial home.



4. Learned counsel for the petitioner, *inter alia*, contends that petitioner No.1 and the complainant were in a romantic relationship since 2007, which eventually culminated into marriage on 08.02.2012. However, the marriage was solemnised against the wishes of the complainant's father, who has coaxed her to register the FIR (*supra*) merely to wreak havoc in the life of the petitioners. Petitioners No.2 & 3, parents-in-law of the complainant, are senior citizens, who suffer from various age related ailments. Further, no specific allegations have been levelled against petitioners No.2 to 5 to justify their arraignment as accused. Petitioners No.2 to 5 reside in Sikar, Rajasthan, while petitioner No.1 is posted at Armed Forces Medical College, Pune, Maharashtra.

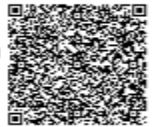
5. Learned counsel for the petitioner further contends that the couple did not reside together for a long time, as in June, 2013, petitioner No.1 was transferred to Alwar, while the complainant worked in Delhi. In November 2013, the complainant began preparations for further studies, while remaining in Delhi and petitioner No.1 was transferred to Jaipur till May, 2014. In May 2014, the complainant moved to Jaipur, but petitioner No.1 returned to Alwar. From March 2015 to August 2016, the complainant worked in Bharatpur and Mumbai/Pune, while petitioner No.1 was posted at Varanasi till 2018. In the last two years, the petitioners have made multiple



attempts to resolve the matrimonial dispute, however, father of the complainant did not let the efforts fructify. On 22.12.2018, the petitioners were called to the office of DSP, Rohtak in lieu of notice under Section 41-A Cr.P.C., but the meeting ended with monetary demands being made by father of the complainant.

6. Having heard learned counsel of the parties and after perusing the record of the case with their able assistance, it is transpires that the complainant and petitioner No.1 have not cohabited for a long time because of their job profiles. In fact, the complainant has barely spent longer than a week at the family house of the petitioners. Moreover, a bare perusal of FIR (*supra*) would indicate that all the allegations levelled against petitioners No.2 to 5 are generic in nature and no specific role has been attributed to them to justify the offences alleged. 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 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

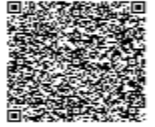


legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

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.”

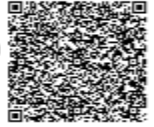
7. A two Judge Bench of the Hon’ble Supreme Court in ***Girdhar Shankar Tawde Vs. State of Maharashtra, (2002) 5 SCC 177***, speaking through Justice Umesh C. Banerjee, opined as follows:

“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 IPC against 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 of IPC 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.

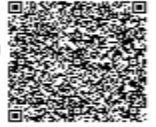
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15. Earlier, in Neelu Chopra and another v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required 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.

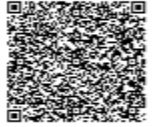
16. Of more recent origin is the decision of this Court in Mahmood Ali and others v. State of U.P. and others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C., 1973. Therein, it was observed that when an accused comes before the 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 the cases filed under Section 498-A of IPC. Recently, a two Judge Bench the Hon'ble Supreme Court in *Mahalakshmi and others Vs. State of Karnataka, 2024(1) R.C.R.(Criminal) 70* quashed the criminal proceedings under Section 498-A of 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 IPC.

10. Nothing available on the record has assisted in establishing involvement of petitioners No.2 to 5 in the marital life of petitioner No.1 and the complainant. Moreover, it remains unproved if any gifts were presented during the wedding in lieu of demands from the petitioners. The entrustment and demand of dowry articles or *stridhan* to petitioners No.2 to 5 is not duly established based on the narrative put forward by the prosecution. The vague and omnibus allegations levelled against petitioners No.2 to 5 seem to be motivated by mere private spite and vendetta.

11. Accordingly, in view of the facts and circumstances of the case, present petition is partly allowed and FIR No.293 dated 28.10.2018 under Sections 406, 498-A of IPC, registered at Police Station Civil Lines, District



Rohtak is hereby quashed qua petitioners No.2 to 5. However, in view of the fact that petitioner No.1 is an officer in the Indian Army, his personal appearance is hereby exempted in view of the ratio laid down in ***Suresh Kumar and another Vs. The State of Haryana and another, 2023 (4) R.C.R (Criminal) 304***, subject to the following conditions:-

- i) he shall be represented through his counsel;*
- ii) he shall not delay/stall the trial proceedings;*
- iii) he shall not dispute his identity as accused;*
- iv) he shall have no objection if the prosecution evidence is recorded in his absence but in the presence of his counsel;*
- v) he shall appear before the trial Court as and when required;*
- and*
- vi) any other condition, which the trial Court may impose.*

12. All the pending miscellaneous application(s), if any, shall stand disposed of.

25.07.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No