

231 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-M-23264-2021
Date of decision: 16.04.2024

Rajbir Singh

...Petitioner

versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhmeet Singh, Advocate
for the petitioner

Mr. Rishabh Singla, AAG Punjab

Mr. Gagandeep Singh Gill, Advocate
for Mr. P.S. Sekhon, Advocate for respondent No.2.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR No. 01 dated 24.01.2021 registered under Section 498-A, 406, 506, 120-B IPC at Police Station Women, Ferozpur and all subsequent proceedings arising out of the same.
2. Briefly, the facts are that the marriage between the petitioner's brother namely Inderjit Singh and respondent no. 2 was solemnised on 09.07.2017 according to Sikh rites and rituals and one male child was born out of this wedlock. The petitioner is the brother-in-law of respondent no. 2 and resides in Canada. At the time of marriage, respondent no. 2 brought many gold items and Rs. 5,00,000/- for her in-laws. A few months after the wedding, respondent no. 2 was informed that the accused i.e. her husband, parents-in-law and the petitioner are looking to solemnise a second marriage of her husband to someone who can help him settle in Canada. The petitioner tried to persuade

respondent no. 2 to arrange some money so that her husband can be sent to Canada. On her refusal to do the same, respondent no. 2 was harassed and maltreated even during her pregnancy. Thereafter, the accused started demanding Rs. 15,00,000/- from respondent no. 2 as they had found a lady settled in Canada with whom they desired to solemnise Inderjit Singh's second marriage. Respondent no. 2 refused to fulfil the said demand causing her husband and father-in-law to throw her and her minor child, out of her matrimonial home.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is a Permanent Resident of Canada and has not visited India since June 2016. In fact, he did not even attend the marriage of his brother with respondent no. 2 and has not made any interference in their matrimonial life. He is merely being implicated by virtue of being Inderjit Singh's brother, out of personal spite and to extract money from him.

4. Having heard the learned counsel for the petitioner and after perusing the record of the case, it transpires that the petitioner is residing in Canada and at no point of time has visited India since 2016. There is nothing on record to remotely suggest that the petitioner has any involvement in the marital life of respondent no. 2.

5. Further, the allegations levelled against the petitioner are vague and general in nature and does not breach the threshold of offence defined under Section 498-A of the IPC. This Court finds it difficult to believe that the petitioner, who has never met respondent no.2 and has not visited India since 2016, can exert such kind of pressure on her to procure Rs.15,00,000/- that would amount to cruelty and harassment. A two Judge bench of the Hon'ble Supreme Court in *Preeti Gupta v. State of Jharkhand (2010) 7 SCC 667* quashed the complaint against the 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.”

6. Furthermore, a two Judge bench of the Hon’ble Supreme Court in

Girdhar Shankar Tawde v. 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...”

7. In the facts and circumstance of the present case, this Court does not find any reason to allow criminal prosecution to continue against the petitioner as the petitioner was residing in Canada during the alleged offences. As such, in view of the discussion above, FIR No. 01 dated 24.01.2021 registered under Section 498-A, 406, 506, 120-B IPC at Police Station Women, Ferozpur and all subsequent proceedings arising out of the same are hereby quashed qua the petitioner.
8. Pending miscellaneous application(s), if any, shall also stand disposed of.

16.04.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No