

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of pronouncement: 15.04.2024

CRM-M-41531-2020 (O&M)

Kajal Saini

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Argued by:- Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Aditya Pal Singla, AAG Haryana.

Mr. S.S. Momi, Advocate
for respondent No.2.

Nidhi Gupta, J.

The prayer in this petition is for quashing **on merits** of FIR No.92 dated 04.03.2020 (Annexure P8) registered under Sections 323, 354, 406 and 498-A IPC at Police Station Ladwa, District Kurukshetra; with all subsequent proceedings arising therefrom, qua the petitioner.

2. Learned counsel for the petitioner inter alia submits that petitioner is the unmarried sister-in-law/nanad of the complainant/respondent No.2 herein. Brother of the petitioner was married to the complainant on 05.03.2018.

3. Ld. Counsel submits that much prior to the marriage of the complainant with the brother of the petitioner, in the year 2013 the petitioner had gone to Chandigarh to study. Thereafter, she had got

admission in five-year MBBS course in Pt. BD Sharma PGIMS, Rohtak and since then, she has been residing in a hostel. In this regard, learned counsel refers to the hostel fee receipt of the petitioner dated 28.09.2015 (Annexure P1). It is submitted that accordingly, the petitioner has never stayed with the complainant in the matrimonial home. It is stated that therefore, any allegations made in the FIR against the petitioner are false and fabricated.

4. Ld. Counsel further contends that the allegations made in the FIR are vague, general, and unsubstantiated. It is submitted that the petitioner has been roped into the matter merely because she is the sister of the complainant's husband. It is reiterated that there is no truth to the allegations made by the complainant against the petitioner.

5. It is further stated that 4 persons were named by the complainant in the present FIR, the same being her father-in-law, mother-in-law, husband, and sister-in-law (present petitioner). Ld. Counsel informs that in respect of the other co-accused, a separate petition bearing CRM-M-14864 of 2021 titled as 'Shashi Bala Saini and others versus State of Haryana and another' seeking the same relief has been filed.

6. Per contra, learned counsel for respondent No.2/complainant vehemently submits that a perusal of FIR shows that the complainant has been tortured and harassed by all the accused, including the petitioner. It is submitted that specific allegations have been made against the petitioner that she used to instigate the husband of the complainant against the complainant. It is also submitted that after due investigation, challan has been filed against all the accused, including the

petitioner, and she has not challenged the challan. The complainant, in her statement under Section 164 Cr.P.C. dated 13.03.2020, had reiterated her version.

7. Ld. Counsel also submits that even now, the complainant is willing to live with her husband and sort out the entire matter in the interest of minor child. However, even though the matter has been referred to Mediation by a Co-ordinate Bench of this Court, the efforts at mediation remained unsuccessful, as the husband of the complainant is adamant on separating from the complainant.

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

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

10. It has not been denied by counsel for the complainant that the petitioner has been studying and residing at Rohtak since 2015. Prior to joining PGIMS, Rohtak, the petitioner was in Chandigarh for 2 years, since 2013, for her coaching classes. The complainant had got married to the brother of the petitioner only on 05.03.2018. Therefore, the petitioner was not even residing in her parental home/matrimonial home of the complainant at the time of marriage.

11. The record further reveals that the brother of the petitioner worked in Bangalore. Therefore, the complainant too had left for Bangalore on 11.04.2018, i.e., after about one month of the marriage; and had returned to the matrimonial home only on 29.01.2019 for delivery of her child. Thereafter, even before the petitioner's return to her parental

home in 2020 after completion of her five-year MBBS course, the parties had started living separately since 21.05.2019.

12. Furthermore, perusal of the FIR shows that the petitioner's name has been mentioned only thrice, in the following manner. The first allegation against the petitioner is that *"All the articles and my jewellery are in possession of my mother-in-law, father-in-law and sister-in-law at village Balti"*. However, as the petitioner never stayed in her parental home at Balti and has been studying at PGIMS, Rohtak, the above allegation therefore, appears to be untrue.

13. The second allegation made against the petitioner is that the petitioner, along with her parents, started harassing the complainant. It is alleged that *"My mother-in-law, father-in-law, husband and sister-in-law Kajal started repeatedly harassing me"*. However, the said allegation is on the face of it vague and general in nature.

14. The last allegation leveled against the petitioner is that *"My sister-in-law and mother-in-law used to poison my husband Gaurav's ear for small things on which my husband Gaurav used to quarrel and shout at me"*. It is my opinion that although there might be some truth in the said allegation, however, the same is not enough to sustain the present FIR.

15. A three-Judge Bench judgment of the Hon'ble Supreme Court in **"Abhishek Vs. State of Madhya Pradesh" 2023 SCC OnLine SC 1083**, has observed that:

"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. It may be pointed out that the facts of the present case are distinctly different from that of the co-accused/parents and brother of the petitioner, who have filed a separate petition bearing CRM-M-14864 of 2021 titled as ‘Shashi Bala Saini and others versus State of Haryana and another’ seeking the same relief, i.e., quashing of the present FIR qua them. Perusal of the FIR shows that unlike the petitioner, specific categoric allegations have been made by the complainant against the said co-accused.

17. In view of the above, present petition is **allowed**; and FIR No.92 dated 04.03.2020 (Annexure P8) registered under Sections 323, 354, 406 and 498-A IPC at Police Station Ladwa, District Kurukshetra; with all subsequent proceedings arising therefrom, is quashed qua the petitioner.

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

15.04.2024
Sunena

(Nidhi Gupta)
Judge

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