



**589-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-3214-2010

Date of decision: 04.12.2024

SURINDER PAL SINGH

...PETITIONER

V/S

GURWANT KAUR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Govinder Singh Brar, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment of conviction and order of sentence dated 28.11.2007 passed by learned Sub-Divisional Judicial Magistrate, Gidderbaha, vide which, the petitioner along with his co-accused is convicted and sentenced in complaint bearing No.32-1 dated 12.04.1997 filed under Sections 406/498-A IPC with rigorous imprisonment for 02 years along with default mechanism. Challenge is also made in the instant petition to the judgment dated 20.11.2010 passed by learned Additional Sessions Judge, Sri Muktsar Sahib in appeal, whereby, the co-accused were acquitted but the conviction of the present petitioner was upheld.

2. Briefly, the facts are that the complaint (*supra*) was filed by the complainant alleging that she got married with the petitioner in the month of December, 1991 in accordance with Sikh rites and ceremonies. Out of the wedlock, one female child was born. After some time of marriage, petitioner and his family started harassing the respondent on account of demand of dowry and turned her out of the matrimonial house. Thereafter, *panchayats* were



convened but to no effect. When in-laws of the respondent did not mend their ways, father of respondent moved an application before the concerned SSP in January, 1993, however, the matter was compromised. Thereafter, the petitioner and his family started beating the respondent again on account of demand of dowry and turned her out of her matrimonial home along with her minor child in October, 1993. Subsequently, the respondent's father moved an application before the police but a compromise was arrived at on 02.05.1994. However, the in-laws of the respondent yet again started harassing her and turned her out of the matrimonial home. Again *panchayats* were convened but matter could not be resolved and the respondent received a notice with respect to the divorce petition filed by the petitioner.

3. Learned counsel for the petitioner *inter alia* contends that the general and vague allegations have been levelled against the petitioner. The matter was compromised between the husband and wife on several occasions, however, since the matrimonial dispute could not be conclusively resolved, a divorce petition was filed by the petitioner. The complaint (*supra*) has been filed as a counter blast to the same. Learned counsel further submits that the purchase of dowry articles has not been proved on record. In fact, there is no evidence proving the entrustment of the same to the petitioner. Moreover, the allegations of demand of dowry have been made against the father of the petitioner, who has since died. As per the settlement arrived at by the parties, land measuring 43 *kanals* has been transferred in the name of the respondent. Furthermore, she also has a share in the house. The marriage between the parties took place in the year 1991 and the complaint (*supra*) was filed in the year 1997, only with an intention to grab more property.



4. A perusal of the interim orders reveals that no one has put in appearance on behalf of the respondent since 18.05.2024. As such, this Court has no option but to decide the present case on its own merits.

5. Having heard the learned counsel for the petitioner and after perusing the record of the case, it transpires that the present petition is pending since 2010. The complaint (*supra*) was filed in the year 1997, as such, the petitioner has been suffering the agony of a protracted trial for the last 27 years. Further, there is no specific evidence placed on record with regard to the allegations levelled against the petitioner. No specific date, time or manner found mentioned in the allegations made by the respondent/complainant qua the petitioner. Although, there is reference of gold ornaments, the same have been stated to be returned by father of the petitioner. As far as the allegation regarding entrustment of remaining dowry articles is concerned, there is no evidence on record to prove the purchase of the same and their entrustment and in this regard no witness has been examined. Even, the complainant/respondent in her cross-examination deposed that the entire dowry articles were taken to her matrimonial home by loading in a tractor trolley, which smashes the plea of the complainant regarding the entrustment of dowry articles to petitioner or other accused persons. Furthermore, the respondent/complainant in her cross-examination also deposed and admitted that the complaint (*supra*) has been filed as a counter-blast to the divorce petition filed by the petitioner. Moreover, the respondent has already been given 43 kanals of land in lieu of a settlement arrived at between the parties. A two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta vs. 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. 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...”

7. 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 the IPC against the 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 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.*

xxx

xxx

xxx

*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.”

8. Time and again, the Courts have highlighted the tendency of roping in all and sundry members of the husband’s family in cases filed under Section 498-A of the IPC. Recently, a two Judge bench the Hon’ble Supreme Court in ***Mahalakshmi and others vs. State of Karnataka Criminal Appeal No. 494/2023*** decided on 30.11.2023 quashed the criminal proceedings under Section 498-A of the 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 the IPC.

9. Accordingly, this petition is allowed and consequently, judgment of conviction and order of sentence dated 28.11.2007 passed by learned Sub-Divisional Judicial Magistrate, Gidderbaha and judgment dated 20.11.2010 passed by learned Additional Sessions Judge, Sri Muktsar Sahib stand set aside and the petitioner stands acquitted of all the charges framed against him.

December 04, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |