

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.25691 of 2020 (O&M)
Date of decision: 23.04.2024

Latasha and another ... Petitioners

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Deepak Kaushal, Advocate,
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Bakul Garg, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioners seeking quashing of FIR No.0368 dated 13.03.2020 registered under Sections 323, 354, 406, 498-A and 506 of IPC at Police Station Jagadhari City, District Yamuna Nagar and the proceedings having emanated therefrom.
2. The aforementioned FIR had been registered on the basis of a written complaint filed by the complainant Pooja Taneja alleging therein that she was married with accused Hemant Taneja on 24.03.2010 according to Hindu rites and ceremonies. Her parents had spent huge amount of money at the time of marriage. Shortly after her marriage, her husband and other members of her in-laws family started taunting her for

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bringing less dowry. Demand of Swift car and air conditioner was raised by them and threats were extended that if the demands so made were not fulfilled, then she would not be allowed to be kept in her nuptial home. She had apprised her parents about this fact and they had given a sum of Rs.50,000/- to her husband and father-in-law in order to settle her. However, their demands kept on increasing. On 06.07.2014, the present petitioner No.1 who is her sister-in-law, her mother-in-law and husband hatched a conspiracy in pursuance of which, the petitioner No.1 slapped her on her face, her mother-in-law pulled her hair and threw her on the ground whereas her father-in-law gave her kicks. Her husband tried to kill her by tying a dupatta around her neck. She raised alarm and somehow saved herself. Then while extending beatings to her, her in-laws threw her out of their house in her wearing apparel and extended threat to her to not to come back unless their demand of car, air conditioner and cash amount of Rs.1 lac was fulfilled. The parents of the complainant had convened various Panchayat meetings to prevail good sense upon her in-laws, but in vain.

3. As per the further allegations, the complainant then moved a complaint before SP, Yamuna Nagar and also instituted cases for grant of maintenance and under the provisions of the Protection of Women from Domestic Violence Act, 2005 (For short "Act, 2005"). Thereafter, her in-laws compromised with her by giving assurance to not to harass her in future. Believing them, she withdrew those complaints. However, sometime thereafter, they started behaving in the same manner by raising

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demands of Rs.5 lacs, a car and gold ornaments. She alleged that she was turned out of her matrimonial house even thereafter but with the intervention of biradari Panchayat, she again came to her in-laws house in November 2018. She alleged that on 18.03.2019, the petitioner No.2 came to her matrimonial house and tried to outrage her modesty. When she complained about the incident to her parents-in-law, then instead of listening to her, they started pressurizing her for meeting with their demands of car, cash and gold ornaments. She expressed inability to meet with those demands and was left at her parental house. On 10.04.2019, her parents had given a sum of Rs.50,000/- in cash to her husband at that time. On 03.09.2019, the petitioners and other members of her in-laws family again raised demand of gold ornaments, car and Rs.5 lacs and extended beatings to her. The petitioner No.1 had slapped on her face whereas petitioner No.2 had kicked her. Her husband tried to kill her. She was confined in a room and on 04.09.2019, was thrown out of her house along with her minor son. As such, she prayed for taking action against the culprits.

4. After registration of FIR, investigation proceedings were initiated. During investigation, the present petitioners secured benefit of pre-arrest bail. The husband and father-in-law of the complainant were also joined into investigation. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court and presently, both the petitioners along with the co-accused are facing trial for commission of offences punishable

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under Sections 323, 406, 498-A and 506 of IPC whereas the petitioner No.2 is also facing trial for commission of offence punishable under Section 354 of IPC.

5. The present petition has been filed by the petitioners on the grounds and it has been argued by their counsel that they have been falsely implicated in this case. The marriage of the petitioners was solemnized on 03.11.2014 and they are living at Sonapat. The marriage of the brother of petitioner No.1 with the respondent No.2 had gone into rough weather due to temperamental differences and personal discord. False, vague and omnibus allegations have been levelled against the petitioners and they have been falsely roped into that case. Infact shortly after her marriage with Hemant Taneja, the respondent no.2 expressed intention to live separately from his parents and they had started living separately in one portion of the house. Subsequently, they had started living in rented accommodation but the respondent No.2 still left her matrimonial house as on 06.07.2014 and had involved them into frivolous litigation. No incidents of slapping of the respondent No.2 by the petitioner No.1 and the petitioner No.2 having given kicks or trying to outrage her modesty had ever happened. The petitioners had no occasion to demand any dowry from the respondent No.2 as they were not beneficiaries of any such demand. Neither any dowry article had been entrusted to them nor there was any allegation, that the same has been misappropriated by the petitioners or converted to their own use.

6. Learned counsel for respondent No.2, on the other hand, had

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submitted that the allegations against the petitioners are serious in nature as they along with the husband and his other family members were repeatedly torturing her physically as well as mentally in order to fulfill the demand of dowry. It is further argued that even if the contentions made by respondent No.2 are disputed, the veracity thereof can be tested in trial before the trial Court. A prima facie case is made out disclosing the ingredients of subject offences and, therefore, he has urged that the FIR does not deserve to be quashed.

7. Having perused the relevant facts and contentions raised by the petitioners as well as respondent No.2, in my considered opinion, the foremost issue which requires determination in the instant case is whether the allegations made against the present petitioners are in the nature of general and omnibus allegations and, therefore, liable to be quashed. Before delving into the greater detail on the nature and contents of the allegations made, it is relevant to mention that Section 498-A of IPC was incorporated with the aim to prevent cruelty committed upon woman by her husband and in-laws, by facilitating rapid state intervention. It, however, cannot be ignored that there is increased tendency to the alarming extent in applying the provisions of Section 498-A of IPC. In the landmark judgment of Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar and another**, (2014) 8 SCC 273, it was observed that there is a phenomenal increase in matrimonial disputes in recent years. Section 498-A of IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his

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relatives. However, the fact that Section 498-A of IPC is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by the disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. There is increased tendency of implicating relatives of the husband in matrimonial disputes without analysing the ramifications of a trial on the complainant as well as the accused. False implication by way of general, omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of process of law.

8. At this juncture, it would be proper to refer to the provisions of Section 498-A of IPC which read as under:-

"498-A. Husband or relative of husband or a woman subjecting her to cruelty. - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

The 'Explanation' appended thereto defines cruelty to mean : (i) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or (ii) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of

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failure by her or any person related to her to meet such demand.

9. Thus, the essential ingredients of the aforementioned provision are:

1. A woman must be married.

2. She must be subjected to cruelty.

3. Cruelty must be of the nature of :

(i) any willful conduct as was likely to drive such woman:

a. to commit suicide;

b. cause grave injury or danger to her life, limb, either mental or physical;

(ii) harassment of such woman, (1) with a view to coerce her to meet unlawful demand for property or valuable security, (2) or on account of failure of such woman or by any of her relation to meet the unlawful demand,

(iii) woman was subjected to such cruelty by : (1) husband of that woman, or (2) any relative of the husband.

10. On considering the allegations as levelled in the FIR lodged by the respondent No.2, I do not find any such allegation has been made or otherwise can be find out so as to enable this Court to arrive at an opinion that the petitioners prima facie have committed any offence punishable under Section 498-A of IPC. A cursory perusal of the contents of the FIR clearly reveals that only general allegations have been levelled against the petitioners by alleging that **“all accused harassed her mentally and threatened her and raised demand of dowry”**. No specific and direct

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allegations have been levelled against them to describe the nature of the cruelty or the harassment alleged to have been made by the present petitioners or any such wilful act or conduct which could have driven the respondent No.2 to commit suicide. The allegations so levelled can at the best be said to have been made on account of small skirmishes. The petitioner No.1 is married sister-in-law of the complainant residing at Sonapat with the petitioner No.2, which is at a distance of more than 173 kms from Ambala wherein the matrimonial home of the respondent No.2 is existing. It cannot be assumed that she along with her husband i.e. petitioner No.2 had been visiting her parental home only for the purpose of harassing the respondent No.2. No allegation as to raising of any specific demand as against these petitioners has been levelled in the FIR on the basis of which it can be stated that the petitioners were subjecting her to cruelty to meet such demand or were committing any such wilful act or conduct which was likely to drive the respondent No.2 to commit suicide. Upon consideration of the relevant circumstances and in the absence of any specific role being attributed to her, in my opinion, it would be unjust, if the petitioners No.1 and 2 are forced to go through the tribulations of a trial for commission of offence punishable under Section 498-A of IPC. General and omnibus allegations cannot manifest in a situation wherein relatives of the husband of the complainant are forced to trial. It is well settled proposition of law that if the allegations do not disclose that any dowry was demanded by the petitioners or any act on their part was likely to drive the complainant to commit suicide, which

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are requisite ingredients with regard to commission of offence punishable under Section 498-A of IPC, they cannot be tried for commission of offence punishable under Section 498-A of IPC. Reference in this regard can be made to **Kahkashan Kausar @ Sonam and others v. State of Bihar and others**, 2022 Live Law (SC) 141, wherein similar observations were made by Hon'ble Supreme Court. It is also relevant to mention here that the petitioners could not be considered to be beneficiaries of demand of dowry alleged to be raised by them from the complainant and taking all these points into consideration, it is held that the proceedings initiated against the petitioners under the aforementioned section are liable to be quashed.

11. So far as the allegations that the petitioners committed offence punishable under Section 406 of IPC is concerned, this section provides punishment for commission of offence of criminal breach of trust as defined under Section 405 of IPC. This offence may be held to have been committed when a person who had been entrusted in any manner with the property or has otherwise dominion over it, dishonestly misappropriates it and converts it to his own use, or dishonestly uses it or disposes it of, in violation of any direction of law prescribing the mode in which the trust is to be discharged, or of any lawful contract, expressed or implied, made by him touching any discharge, or wilfully suffers any other person to do so. In this case, even on taking allegations as levelled in the FIR to be correct on their face value, in my opinion, the same do not make out a prima facie case as against the petitioners for having dishonestly

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misappropriated the istridhan of the complainant-respondent No.2. It is not made out from these allegations that any istridhan belonging to the complainant was even handed over to them thereby committing criminal breach of trust punishable under Section 406 of IPC. It is rather manifestly clear from the allegations in the FIR itself that there was no allegation of entrustment of any specific kind of property by the complainant to the present petitioners and only general allegation that the respondent No.2 asked for return of her dowry and istridhan to the accused persons and they blatantly refused to give back the same have been raised. Since the allegations in the FIR itself do not make out as to what particular kiind of istridhan belonging to respondent No.2 had been entrusted to which particular petitioner or the co-accused, therefore, not only the allegation qua entrustment of property or its misappropriation by the petitioners which is the pre-requisite of offence under Section 406 of IPC is lacking but also that which particular petitioner or the co-accused misappropriated the same has also not been shown. The only allegation which has been levelled in the FIR to bring the instant case within the purview of Section 406 is that the petitioners and the co-accused had taken all the gifts/cash given by the guests. Technically, these allegations do not attract the definition of breach of trust within the meaning of Section 405 of IPC. So far as entrustment of other properties or having dominion over those properties is concerned, no such allegation is attributed to the petitioners. It is well settled proposition of law that any gift made to bridegroom or his parents, whether in accordance with any

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custom or otherwise, does not constitute an offence under Section 406 of IPC. Therefore, in my considered opinion, prosecution of the petitioners for commission of offence punishable under Section 406 of IPC is also not proper.

12. So far as the offence under Section 323 of IPC is concerned, in the FIR, the respondent No.2 alleged that the petitioners and the co-accused had extended beatings to her on 08.06.2017, 10.08.2018, 18.03.2019 and 03.09.2019. However, neither any medical examination of the respondent No.2 was conducted on these dates nor there is mention of the said fact in the FIR. More so, it has also not alleged as to which of the petitioners or the co-accused had caused what kind of hurt/injury to respondent No.2. As such, the prosecution of the petitioners qua commission of offence punishable under Section 323 of IPC can also not to be stated to be proper.

13. Both the petitioners along with the co-accused have also been challaned and charge-sheeted for commission of offence punishable under Section 506 of IPC. For the purpose of proving charge under Section 506 of IPC, it is required to be shown that the accused had threatened the victim with injury to his/her person, reputation or property; that he did so with intent to cause alarm to the victim and that he did so to cause the complainant to perform any act which he/she was not legally bound to do. The gist of offence under Section 506 of IPC is the effect, which the threat is intended to have upon the mind of the person so threatened. It is necessary that the threat given is real and the

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person giving the threat means it. The threat should be a real and not just a mere word when the person uttering it does exactly mean what he says. Empty threats do not mean that any case under Section 506 of IPC is made out. An offence under this section by spoken words cannot be made out unless it is proved that these words were uttered with specific intention. In this case, however, the allegations do not make out that any threat thereby causing alarm to the respondent No.2, had been extended by the petitioners nor the specific dates, months or year(s) of extension of such threat by them, have been quoted. As such, the prosecution of the petitioners under these provision also amount to abuse of process of law.

14. So far as the charge under Section 354 of IPC as framed against the petitioner No.2 is concerned, it was alleged by the complainant in the FIR that whenever the petitioner No.2 got opportunity, he used to do vulgar acts with her and even touched her sensitive body parts. She also alleged that on 18.03.2019 also, the petitioner No.2 had tried to do some vulgar act with her qua which she had made complaint to her parents-in-law. It is difficult to believe that the petitioner No.2 who visited his matrimonial house with his wife could dare to commit any such act and, therefore, this allegation also appears to have been made with the purpose of falsely roping in the petitioner No.2.

15. Apart from the discussion as made above, some other facts of pertinence which are also required to be noted are that according to the respondent No.2-complainant, she was thrown out of her matrimonial house on 04.09.2019 whereas the FIR of this case was lodged after a gap

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of more than six months i.e. on 13.03.2020. Taking no action on the part of the respondent No.2 for this much period of time gives rise to an inference that the FIR has been lodged against the present petitioners after making due deliberations and concoctions and only with a view to harass them, they being real sister and brother-in-law respectively of the husband of the complainant.

16. As such, it emerges that the allegations as levelled in the FIR, even on given face value and taken to be correct in their entirety do not make out any offence as against the petitioners. In **Onkar Nath Mishra and others v. State (NCT of Delhi) and another**, 2008 (1) RCR (Criminal) 336 and **Devendra and others v. State of U.P. and another**, 2009 (7) Scale 613, it was observed by Hon'ble Supreme Court that when the allegations made in the FIR or the evidence collected during investigation, do not satisfy the ingredients of offences, the superior courts would not encourage harassment of a person in a criminal Court for nothing.

17. Given the totality of the facts and circumstances, I am of the considered opinion that the allegations as levelled by the complainant against the petitioners, as they are, are wholly insufficient and prima facie, do not make out a case against them. As such, permitting the criminal process to go on against the petitioners in such a situation, would, therefore, result in clear injustice and hence, it is a fit case for this Court to exercise its inherent powers under Section 482 of Cr.P.C. and to quash the FIR and consequential proceedings as against the petitioners

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and it would be unjust to force them to face the ordeal of the trial for commission of the aforementioned offences. Accordingly, FIR No.0368 dated 13.03.2020 registered under Sections 323, 354, 406, 498-A and 506 of IPC at Police Station Jagadhari City, District Yamuna Nagar and the consequential proceedings arising therefrom, are ordered to be quashed qua the present petitioners only and the petition stands allowed.

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

	(MANISHA BATRA)
	JUDGE
23.04.2024	
manju	
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No