



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

218-3

CRM-M-28391-2023 (O&M)

Date of Decision: 21.11.2024

Jaspal Kaur Bhinder

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Dr. Anmol Rattan Sidhu, Senior Advocate
with Mr. Pradeep Virk, Advocate,
Mr. Shiv Kumar Sharma, Advocate
and Mr. Bhisham Kinger, Advocate
for the petitioner.

Mr. Vishav Deep Goyal, Advocate
for respondent No.2

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J.(ORAL)

1. The instant petition is preferred under Section 482 Cr.P.C. seeking quashing of FIR No. 208 dated 28.12.2017 registered under Section 498-A, 406 IPC at Police Station Dasuya and all consequent proceedings arising therefrom.

2. Briefly, the facts as alleged by the prosecution are that the marriage between the son of the petitioner and Noreen Virk, daughter of respondent No.2 was solemnized on 10.11.2013. Soon after the marriage, the son of the petitioner went to Canada where Noreen Virk joined him on 09.03.2016. A daughter was also born to the couple on 14.12.2016 for which the daughter of respondent No.2 was mistreated. The petitioner and her family

started pressurizing Noreen Virk to send Rs. 5,00,000/- to help the son of the



petitioner to buy a house in Canada, as well as furniture and a washing machine. When she failed to do so, the petitioner and her son started torturing her physically and mentally. Noreen Virk also called the police in Canada at '911.' Ultimately, Noreen Virk and her daughter were shunned out of the matrimonial home by the son of the petitioner on 14.02.2017. The petitioner and her family also snatched her *stridhan* and dowry articles.

3. Learned Senior counsel for the petitioner *inter alia* submits that the Noreen Virk only stayed at the matrimonial home in India for about a month. She moved back to her paternal home where she stayed for three months. Thereafter, she moved to Canada but eventually started living separately from the son of the petitioner on the advice of respondent No.2. The couple has been granted divorce and they have already settled the issue of custody of their daughter. She has also been granted CAD 519 per month as maintenance and spousal support to the amount of CAD 9200 by the concerned Canadian Court. The son of petitioner and Noreen Virk are permanent residents of Canada and the FIR(supra) has been unjustly registered by respondent No.2, father-in-law of the petitioner's son. As such, major part of the alleged offence has occurred in Canada and the Indian authorities could not have taken cognizance of it. Reliance in this regard is placed on the judgment rendered by the Hon'bel Supreme Court in ***Harmanpreet Singh Ahluwalia vs. State of Punjab and others (2009) 7 SCC 712.***

4. Learned counsel for respondent No.2 as well as the learned State counsel submitted that the petitioner made demands for gold and was also handed over Rs. 1,00,000/- in cash by Noreen Virk. She also raised a demand for Rs. 10,00,000/- and a car. She also beat her and turned her out of the



matrimonial home. As such, she deserves to be prosecuted to the full extent of the law.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is the 68 years old mother-in-law of the daughter of respondent No.2. It appears that major part of the alleged incidents of harassment took place in Canada and cognizance of the same could not have been taken by the police in India. Chapter XIII of the Cr.P.C. deals with the jurisdiction of the criminal courts in inquiries and trials. Section 177 Cr.P.C. states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 178 of Cr.P.C. reads as under:

"Section 178. Place of inquiry or trial.

(a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed, partly in one local area and partly in another, or

(c) where an offence, is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas."

In order to engage an investigating agency to inquire into the alleged offence, the territorial jurisdiction must be established, failing which would render the FIR to be not maintainable. Reliance in this regard may also be placed on judgments of this Court in ***Ashish Jain vs. State of Haryana 2020 (2) R.C.R. (Criminal) 240, Partap Singh vs. State of Punjab 2010 (14) R.C.R. (Criminal) 465, Bahadur Singh vs. State of Punjab 2010 (3) R.C.R. (Criminal) 252 and Surindervir Singh vs. State of Punjab 2020 (3) R.C.R. (Criminal) 265.*** Moreover, as mandated by Section 188 of the Cr.P.C, when



the alleged offence is committed outside India, criminal prosecution cannot be initiated in India without obtaining sanction by the central government. Citing the judgment rendered by the Hon'ble Supreme Court in ***Sartaj Singh vs. State of Uttarakhand (2022) 13 SCC 136***, a Co-ordinate bench of the Kerala High Court in ***Darvin Dominic vs. State of Kerala*** bearing case number *Crl. MC No. 2448 of 2023 decided on 06.06.2024* has quashed the final report indicating offence under Section 498-A IPC in view of the fact that the alleged incident, in its entirety, has occurred abroad.

6. Furthermore, a perusal of the FIR(supra) indicates that all the allegations levelled against the petitioner are generic in nature and no specific role has been attributed to her. It appears that the couples has been granted divorce by the Superior Court of Justice, Ontario, Canada vide order dated 27.03.2018 and the same was to take effect from 31.05.2018 (Annexure P-5). Moreover, the issue qua custody of their minor child also stands settled. 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 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.”

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 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.

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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 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 2024(1) R.C.R.(Criminal) 70* 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.

10. Accordingly, in view of the facts and circumstances of the case, the present petition is allowed and FIR No.208 dated 28.12.2017 registered under Section 498-A, 406 IPC at Police Station Dasuya is hereby quashed qua the petitioner.

11. In view of the above, the present petition is disposed of accordingly. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

21.11.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No