

Neutral Citation No.2024:PHHC:059156

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.27232 of 2020

Date of decision: 23.04.2024

Sudershan Kumar Taneja 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 petitioner No.1-father-in-law in order to settle her. However, their demands kept on increasing. On 06.07.2014, the present petitioner No.2 who is her mother-in-law, her sister-in-law, and husband hatched a conspiracy in pursuance of which, her sister-in-law slapped her on her face, the petitioner No.2-her mother-in-law pulled her hair and threw her on the ground whereas the petitioner No.1-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 vein.

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, her in-laws started behaving in the previous manner

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by raising demand 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 husband of her sister-in-law 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. Her sister-in-law had slapped on her face whereas husband of her sister-in-law 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 who are father-in-law and mother-in-law respectively of the complainant were joined into investigation and were extended benefit of bail. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court and presently, the petitioners along with the co-accused who are their son, daughter and son-in-law

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respectively are facing trial for commission of offences punishable under Sections 323, 406, 498-A and 506 of IPC.

5. The present petition has been filed by the petitioners on the grounds and it is argued by their counsel that the marriage of the complainant-respondent No.2 was solemnized with their son Hemant Taneja on 24.03.2010 in a simple manner. Shortly after the marriage, the respondent No.2 had started pressurizing her husband to live separately from the petitioners and in the year 2011, they had started living in a separate portion of their house. The marriage between their son and the respondent No.2 had gone into rough weather due to temperamental differences and personal discord. However, the petitioners were having nothing to do with their matrimonial life. Vague, omnibus and general allegations have been levelled against them with mala fide to wreak, vengeance and they have been falsely roped into this case. In February 2013, the respondent No.2 had moved an application against her husband and the petitioners before Women Cell. It was agreed that the respondent No.2 would be living separately in a rented house and they had started living separately in rented accommodation since March 2013. Still the respondent No.2 had left the house of her husband on 06.07.2014 and had lodged a complaint against her husband as well as the petitioners. Compromises were effected between the parties subsequently also on several occasions. The petitioners were not beneficiaries of alleged demands of cash or car as they had not been living with the respondent No.2 or her husband. No specific role had been attributed to them. As per

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her own version, the respondent No.2 had left her matrimonial home in September 2019 whereas the FIR was lodged after a gap of six and half months without assigning any reason. The allegations as levelled against them were far fetched and improbable and did not make out any case qua commission of subject offences by them. Therefore, it is argued that the impugned FIR and the subsequent proceedings commenced on the basis of the same including the charge-sheet are liable to be quashed.

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

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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 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

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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 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

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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 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 best be said to have been made on account of small skirmishes.

11. The petitioners are parents-in-law of the complainant. Though as per the allegations, they along with other members of their family had demanded swift car and AC from the respondent No.2 and used to taunt her for bringing less dowry and also extended beatings to her when she expressed inability to meet their demands and further alleged that firstly demand of Rs.1 lac and subsequently demand of Rs.5 lac and car was raised by them and otherwise she was threatened to be killed, however, these allegations are not as against any particular member of family of the petitioners and is rather against all the members of in-laws family of the respondent No.2. It is also pertinent to note that as per her own version, the respondent No.2 had been thrown out of her matrimonial house in September 2019 after being extended beatings by her in-laws.

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However, she kept quiet for a period of more than six and half months and lodged FIR only on 13.03.2020. It is well settled proposition of law that there is a tendency to implicate the husband and his immediate relations in complaints filed under Section 498-A of IPC and the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relatives who had been living separately from him would have to be scrutinized with great care and circumspection. It may also be noted that though as per the allegations in the FIR, the petitioners, the husband of respondent No.2 and other members of her in-laws family had been taunting her for bringing less dowry and making demands but the respondent No.2 is shown to have changed the nature of those demands at different points of time because firstly she alleged that her in-laws raised demand of swift car and AC from her, then she stated that on 06.07.2014, they raised demand of car, AC and Rs.1 lac in cash and as per the subsequent allegations, they raised demand of a sum of Rs.5 lacs in cash and a car. She is further shown to have alleged that on 08.06.2017, her in-laws in connivance with each other raised demand of car, Rs.5 lacs, gold chain for her father-in-law, gold bangles for her mother-in-law, gold bracelet for her sister-in-law and gold ring for her brother-in-law and on account of her refusal, she was extended beatings. Shortly thereafter, she is shown to have alleged that on the next day from 08.06.2017, she was told by her in-laws that they would behave in the

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same manner with her till their demand of car or Rs.5 lacs was not met with. As such, she is shown to have made allegations qua raising different demands by the petitioners and other co-accused at different points of time which amount to inconsistent stands as taken by her. In view of the shifting stand so taken by the respondent No.2 and upon consideration of the relevant facts and circumstances, in my considered opinion, allowing their prosecution would result in an abuse of process of law.

12. It may be mentioned at this stage that the well settled proposition of law is also that there is a tendency to implicate the husband and all this immediate relations in such like complaints and the Court have to be extremely careful and cautious in dealing with such complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relatives might be with the ulterior motive of wreaking, vengeance and, therefore, such allegations are to be scrutinized with great care and circumspection. Since as per the discussion made above, the allegations with regard to subjecting the respondent No.2 to cruelty within the meaning of Section 498-A of IPC are based on allegations which are general, omnibus and even inconsistent to each other even if the version of the FIR is to be taken as it is on record. Therefore, it is held that the proceedings initiated against the petitioners under Section 498-A of IPC are liable to be quashed.

13. So far as the allegations that the petitioners committed offence

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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 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

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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 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.

14. 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

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commission of offence punishable under Section 323 of IPC can also not to be stated to be proper.

15. 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 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.

16. Apart from the discussion as made above, some other facts of pertinence which are also required to be noted are that according to the

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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 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 parents of the husband of the complainant.

17. 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.

18. 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

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quash the FIR and consequential proceedings as against the petitioners 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.

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