

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

240.

CRM-M No.29275 of 2020 (O&M)
Reserved on:03.04.2024
Pronounced on:05.04.2024
- Dolly

... Petitioner
- Versus
- State of Haryana and another

... Respondents
2.

CRM-M No.33592 of 2020 (O&M)
- Amit Kumar

... Petitioner
- Versus
- State of Haryana and another

... Respondents
3.

CRM-M No.42437 of 2020 (O&M)
- Chander Prabha and another

...Petitioners
- Versus
- State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harsh Chopra, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, AAG, Haryana.

Ms. Poonam Saroya, Advocate for
Mr. Ashwani K. Antil, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J.

1. This judgment of mine shall dispose of all three above captioned petitions as the relief sought in all petition is similar i.e. quashing of FIR No.0042 dated 18.03.2020 registered under Sections 323, 34, 406, 498A, 506 IPC at Police Station, Sadhaura, District Yamuna Nagar and all consequential

proceedings relating thereto.. However, for the sake of brevity, facts are culled out from CRM-M No.29275 of 2020.

2. In brief, the facts are that the FIR (supra) was lodged by respondent No.2-complainant against her in laws alleging therein that she married to Ajay Kumar on 08.02.2015 and her father had spent an amount of Rs.20 lakhs at the time of marriage. However, after marriage, the accused persons started harassing her on account of bringing less dowry and insulted her by taunting that they were expecting a car in the marriage but her parents did not give a motor cycle and if she wanted to live in the house, she was to bring Rs.5 lakhs as cash. When she tried to make understand their in-laws that her parents have already given the dowry beyond their capacity and they cannot fulfill their demand, they locked her in room and beaten her mercilessly. She was working in a mall at Chandigarh and her husband used to snatch her salary and demanded Rs.5 lakhs cash on the pretext that her father is a retiree from Haryana Roadways and therefore, he has lot of money. She narrated the entire matter to her father, who gave Rs.1,80,000/- by withdrawing the same from his bank account to the accused through her. Thereafter, accused persons behaved normally with her for some time, however, after sometime they started repeating their demand and threatening the complainant. It was further alleged that husband of the complainant in connivance with his elder brother and sister-in-law (*bhabhi*) murdered his first wife and pressurized the complainant to adopt the daughter born from his first wedlock otherwise he will not allow her to stay in the matrimonial house peacefully. Even the in-laws of the complainant supported her husband. The father of the complainant had built up a new house, which was to be inaugurated on 28.06.2019 and when she showed her

willingness to go to her paternal home, she was asked to go alone by the accused persons saying that your father has no relation with us.

3. On 22.06.2019, when the complainant left for her parental house, they did not even give bus fare to the complainant. On 28.06.2019, husband of the complainant reached to parental home of the complainant around 10.00 to 10.30 PM and misbehaved with her family members and when she tried to interfere she was beaten up mercilessly in front of her family members.

4. On 29.06.2019, her husband left her parental house without telling anyone. The complainant tried to contact him but there was no contact and on 05.07.2019 when she returned back to her matrimonial home, she was misbehaved and beaten up and harassed for demand of dowry again. On 23.08.2019, she was thrown out of her matrimonial home by saying that if she did not bring Rs.5 lakhs then there is no place for her in the matrimonial home and they will arrange another marriage for their son. The complainant told the entire story to her maternal aunt but accused persons reached there and beaten her up and also gave a false complaint to the police.

5. Thereafter, on 24.08.2019, the complainant reached her paternal home and narrated whole story to her father. On 25.08.2019, the complainant and her father reached the police station and gave a complaint against accused person. Thereafter, several meetings were arranged with accused persons but they did not accept the complainant in their family, thus, she is living at her parental house since 24.08.2019. All jewellery items, clothes and *ishtridhan* of the complainant are lying in the custody of accused persons, who can misappropriate them and a legal action was sought to be taken against accused persons.

6. Learned counsel for the petitioner(s) *inter alia* contended that petitioners in all three petitions are brother-in-law (*jeth*), sister-in-law (*jethani*), father-in-law and mother-in-law of the complainant. They are falsely implicated in the present case being close relatives of the husband of the complainant. It is alleged in the FIR by the complainant herself that after marriage she started living at Chandigarh and was working in a mall there. Therefore, after marriage of the complainant, she never lived in a shared household with her in laws or brother-in-law (*jeth*) and sister-in-law (*jethani*), who were living at Ropar. Further, there are no specific allegations in the FIR against the in-laws qua demand of dowry or mental/physical cruelty. It is further contended that the petitioner in CRM-M No.29275 of 2020 suffered a miscarriage on 16.07.2018 and was advised to take complete bed rest, therefore, it is unbelievable that she did cruelty with the complainant during the period as mentioned in the FIR (supra). It is also contended that root cause of matrimonial discord between the complainant and her husband is that she is suffering from infertility and taking treatment for the same from PGIMER, Chandigarh, which fact was not disclosed before marriage by the complainant or her parents. Medical record of the complainant-respondent No.2 is annexed with the petition bearing CRM-M No.29275 of 2020 as Annexure P-7. In support of his arguments, counsel for the petitioner(s) relies upon the judgments passed by the Hon'ble Supreme Court in ***Preeti Gupta and another Vs. State of Jharkhand and another AIR 2010 (SC) 3363; Inder Mohan Goswami and another Vs. State of Uttranchal and others (2007) 12 SCC 1*** and the judgments passed by this Court in ***Nischal Vs. State of Punjab (Punjab and Haryana) 2019 (1) Law Herald 384*** and ***Suresh Kumar Kamboj***

and others Vs. State of Haryana and another passed in CRM-M No.57384 of 2018 decided on 13.03.2020.

7. Per contra, learned State counsel and the counsel appearing for respondent No.2 contended that there are specific allegations against the petitioners as to when and in what manner they caused cruelty upon the complainant by demanding dowry and harassed her. The FIR (supra) has been registered after due inquiry and during investigation of the case, allegations levelled against the petitioners were found cogent and after completing the investigation, final report under Section 173 Cr.P.C. has already been submitted. It is further contended that the petitioners herein had instigated the husband of the complainant to harass and humiliate the complainant.

8. I have heard learned counsel for the parties and perused the record of the case with their able assistance. A perusal of the FIR (supra) indicates that there are no specific role attributed to the petitioners except casual reference of their names in mentioned in the complaint given to the police which formed the basis for registration of the FIR (supra). There is a tendency to involve the entire family members in the domestic quarrel, which erupts between the husband and wife and therefore, without allegation of active involvement in the matter, cognizance against them is not justified. In order to prosecute the near and dear relatives of the husband of the complainant, the allegations ought to be specific and not omnibus and vague. A two Judge Bench of the Hon'ble Supreme Court in *Geeta Mehrotra Vs. State of U.P. (2012) 10 SCC 741* speaking through Justice Gyan Sudha Misra has held as under:-

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against

Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that: (SCC p. 698, para 12)

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose

their 'young' days in chasing their 'cases' in different courts."

A two Judge Bench of the Hon'ble Supreme Court in ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others (2022) 6 SCC 599*** speaking through Justice Krishna Murari has held as under:-

"17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the

appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

9. A two Judge bench of the Hon’ble Supreme Court in ***Preeti Gupta v. 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.”

A two Judge bench of the Hon’ble Supreme Court in ***Girdhar Shankar Tawde v. 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...”

10. Furthermore, a perusal of the records of the case reveals that the complainant and her husband were not living in joint household with the petitioners as in the FIR, address of the petitioners was mentioned of Ropar whereas the complainant was living along with her husband in Chandigarh. However, in para 8 of the reply on merits filed by the respondent-State, it is averred that father-in-law of the complainant was a government employee and was residing in government accommodation at Sector 24, Chandigarh and petitioner-Dolly along with her husband also resided there for one year and they all used to instigate husband of the complainant to harass and humiliate her. Thus, it is crystal clear that complainant along with her husband was living separately from petitioners and the allegations of instigating the husband of the complainant to harass and humiliate her are again general, vague and omnibus.

11. A three Judge bench of the Hon'ble Supreme Court in *Abhishek v. 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.”

12. Recently, the Hon’ble Supreme Court in *Mamta Shailesh Chandra v. State of Uttrakhand and others SLP(Crl.) No. 7273/2019 decided on 29.01.2024*, has held that a petition under Section 482 of the Cr.P.C. for quashing of FIR is maintainable even after filing of the chargesheet.

13. In view of the aforesaid facts and circumstances, all three petitions are allowed and FIR No.0042 dated 18.03.2020 registered under Sections 323, 34, 406, 498A, 506 IPC registered at Police Station Sadhaura, District Yamuna Nagar (Annexure P-1) and all subsequent proceedings arising therefrom including the final report dated 06.07.2020 (Annexure P-2) are quashed qua petitioners.

(HARPREET SINGH BRAR)
JUDGE

April 05, 2024
Pankaj*

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