

CRM-M-38615-2021 (O&M)
Date of decision: 04.04.2024

...PETITIONERS

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

Present: Mr. Deepak, Advocate for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Mohit Kumar, Advocate
for respondent no. 2.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been preferred under Section 482 of the Cr.P.C. seeking quashing of FIR No. 371 dated 14.09.2019 registered under Sections 498-A and 406 of the IPC at Police Station City Barnala.
2. The marriage between respondent no.2-complainant and Pargat Singh was solemnised on 17.03.2019 in accordance with Sikh rites and rituals. However, due to matrimonial dispute, the FIR(supra) was registered on the allegations that the in-laws of respondent no. 2, including the petitioners, harassed her for dowry and turned out of her matrimonial home one month after the marriage.
3. Brief facts of FIR are reproduced hereunder:

“The S.S.P. Barnala, District Barnala. Subject: Application regarding registration of case under Section 498-A/406 IPC, against (1) Pargat Singh son of Raghvir Singh; (2) Raghvir Singh son of Dalip singh, (3) Gurwinder Kaur wife of Raghvir

Singh; (4) Buta Singh son of Raghvir Singh; (5) Amandeep Kaur wife of Boota Singh, residents of Rajgarh, Tehsil and District Barnala, (6) Harpreet Singh D/o of Raghvir Singh, now wife of Ramandeep Singh; (7) Ramandeep Singh husband of Harpreet Kaur, (8) Jarnail Singh son of Swaran Singh, resident of Handiaya, Tehsil and District Barnala. Sir, The application is submitted as under:- (1) That my parental house is Sanghera. My marriage was solemnized with accused No. 1 Pargat Singh mentioned in the subject on 17.03.2019 by way of Anand Karaj. The marriage function party was performed at Party Land Marriage Palace, Mehal Kalan Road, Amla Singh Wala. (2) That at the time of the above mentioned marriage, my parental had given enough articles of istridhan and gold ornaments to me in the presence of our relatives and respectable persons came in the marriage and the entire articles were entrusted as my istridhan being my security to the accused persons, out of which, one gold chain weighing about one and half tola, gold bracelet weighing about one tola, one gold ring weighing about 6 grams and one new Maruti Swift Car to my husband Pargat Singh accused No. 1 and one gold ring weighing about 6 grams to my father in law Raghvir Singh accused No. 2, one gold chain weighing about one tola to my mother in law Gurwinder Kaur accused No. 3, one gold ring weighing about 6 grams to my elder brother in law Boota Singh accused No. 4, one pair of gold topus weighing about 5 grams to my elder sister in law namely Amandeep Kaur accused No. 5, one pair of gold topus weighing about 5 grams to my sister in law namely Harpreet Kaur accused No. 6, one gold ring weighing about 6.5 grams to Ramandeep Singh- husband of my sister in law Harpreet Kaur accused No. 7 and one gold ring weighing about 3.5 grams to accused No. 8 Jarnail Singh, who is the maternal uncle of accused Pargat Singh and is also our mediator and besides this, according to the version of the accused persons, gold ear rings weighing about 5.5 grams to Jangir Kaur grandmother of accused Pargat Singh, one gold ring weighing about 3.5 grams each to two maternal uncles of accused Pargat Singh, one gold ring weighing about 5.5 grams for son of paternal aunt, one gold ring weighing about 3.5 grams for another maternal uncle and other household articles were also entrusted to the accused persons. My entire articles and gold silver ornaments etc was entrusted to the accused

persons being my security and it was said to them that this is the istridhan articles of our daughter, which is her security with you, whenever our daughter may demand the same, then return the same to her. The accused persons by taking this entire articles of my istridhan into their possession, promised to return the same to me upon my making demand and at the time of departure of baraat, the accused persons by keeping this entire articles-istridhan in a canter brought the same along with them. The accused persons had brought approximately 500 persons in the baraat, upon service of whom approximately a sum of Rs. 7/8 lakhs were incurred meaning thereby that on this marriage, approximately a sum of Rs. 20/22 lakhs were incurred by my parental family. Not only this, even before the marriage, our engagement had taken place in a hotel at Barnala, even at that time, the accused persons had brought approximately 150/200 persons and at that time also, approximately a sum of Rs. 3/3.5 lakhs had been incurred. (3) That the accused persons are very greedy persons. Immediately after our marriage, the accused persons started causing harassment to me and started giving taunts that you have brought too much lesser dowry, due to which our immense insult has taken place in our relations, you and your family has done all this, due to which the accused persons started demanding big car or cash amount of Rs. 10 lakhs from me and had also started demanding to bring the amount by way of selling the land measuring 4/4 acres of ownership-possession of me and my mother, who in order to get their instant demand fulfilled also started giving beatings to me and started hurling abuses to me. Many times, I made an attempt to make the accused persons understand that my father has since been expired, mother is widow, but even thereafter my parental family has incurred huge expenses on my marriage more than their capacity as well as after borrowing the amount from our relatives, on account of which now they cannot give more money or any article, but the accused persons did not pay any heed to me, rather they were forcibly confining me starved in a room and were kept on giving taunts to me and my family members on petty matters. My sister in law namely Harpreet Kaur and her husband Ramandeep Singh after coming to my matrimonial home, after having been connived with the other accused persons were also hurling abuses to me. The accused persons were considering me merely as maid

servant of their house and were intentionally humiliating me in the presence of every person visiting the house. Due to this reason, once the accused No. 1 to 7 also committed an attempt to eliminate me by way of strangulation and I very hardly raised commotion, then the accused persons upon gathering of neighbourers left me. I also told our mediator Jarnail Singh in this regard, but he also supported the accused persons. Due to this reason itself, the accused persons after giving me beatings just after about one month of our marriage, had forcibly turned me out of their house in the clothes worn on the person and had raised demand of Rs. 10 lakhs from me, upon which I very hardly reached at my parental house and narrated the entire episode. (4) That after 3/4 days of the same, my mother Gurmeet Kaur after having been accompanied with respectable persons, made entreaties before the accused persons after visiting them regarding rehabilitating me in the house of accused Pargat Singh, but they refused to rehabilitate me in their house without getting fulfilled their above mentioned demand and also said immense bad words to us the entire panchayat and insulted the panchayat. Even thereafter I made a number of efforts to be rehabilitated being wife in the house of accused Pargat Singh, but nothing could be matured. Lastly we also got effected compromise regarding taking legal divorce before the respectable persons, but the accused persons have also since been resiled from the said compromise. (5) That now on day before yesterday ie. on 18.08.2019, I again along with my mother and respectable persons namely Nachhattar Singh Nambardar, Ranjit Singh son of Kaka Singh, Manjit Singh son of Surjit Singh, residents of Sanghera etc made attempt to rehabilitate in the house of accused Raj Kumar. At that time all the accused persons were present, but the accused persons flatly refused to rehabilitate in their house, upon which I also demanded back my istridhan from all the accused persons, then the accused persons also refused to return the same, rather said that we have since misappropriated your articles of istridhan and also extended threat that if you made an attempt to come to our house or bring the panchayat or raised any demand of your any article, then we will criminally intimidate you. In this way, the accused persons have forcibly as well as in greed of dowry/cash have since turned me out of their house and they have committed criminal breach of trust, regarding which it is appropriate to take

stern action against the accused persons. Therefore, by submitting the application it is requested that after registering case against the accused persons, stern action may kindly be taken and justice may kindly be given to me. I shall be highly thankful to you. Dated 20.08.2019. Yours faithfully: Sd/- Lovepreet Kaur.”

4. Learned counsel for the petitioners contends that the FIR (*supra*) has been filed by respondent no.2 as a retaliation to Pargat Singh's refusal to file for divorce under Section 13-B of the Hindu Marriage Act, 1955 by showing the wrong date of marriage. The petitioners are nowhere involved in the matrimonial life of Pargat Singh and respondent no. 2 and have been maliciously roped in by means of vague allegations to further harass the family.

5. Having heard the learned counsel of the parties and after perusing the record with their able assistance, it is transpires that petitioner no. 1 is the brother-in law (*jeth*), petitioner no. 2 is the sister-in-law (*nanad*) and petitioner no. 3 is the uncle-in-law (*mama sasur*) of respondent no. 2. It is evident that all the allegations are generic in nature and no specific allegations have been levelled against the petitioner. 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.”

6. 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...”

7. 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."

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 v. 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. It appears that petitioner no. 1 has been married to one Mandeep Kaur since the year 2014 and resides in a rented accommodation in Sangrur while petitioner no. 2 has barely visited her paternal home been since she got married 6 years ago and is residing happily in her matrimonial home in Barnala. Petitioner no. 3 is an elderly person of 56 years of age, who has no involvement in matrimonial life of respondent no.2. In view of the same, this Court is of the considered view that no nexus has been established between the petitioners and the alleged harassment meted out to respondent no. 2.

10. Accordingly, this petition is allowed and FIR No. 371 dated 14.09.2019 registered under Sections 498-A and 406 of the IPC at Police Station City Barnala is hereby quashed qua the petitioners. Pending miscellaneous application(s), if any, shall also stand disposed of.

04.04.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No