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

CRM-M-36551-2019

Date of decision: 09.04.2024

Naresh Kumar and others

....Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manish Verma, Advocate
for Mr. J.S. Lalli, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG Haryana.

Ms. Shikha Khullar, Advocate
for respondent No. 2.

HARPREET SINGH BRAR, J.

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR No. 1258 dated 10.10.2018 registered under Sections 406, 498-A, 506 and 34 of the Indian Penal Code at Police Station Karnal City, Karnal and all subsequent proceedings arising therefrom.

2. Briefly, the facts are that respondent no.2-complainant was married to the brother of petitioner No.1, namely Naveen Bajaj, on 25.08.2015 (wrongly mentioned as 25.08.2018 in the above said FIR). Petitioner no.2 is the wife of petitioner no.1 and petitioner no.3 is his mother, i.e., mother-in-law of the complainant. Allegedly, soon after marriage the petitioners along with Naveen Bajaj started harassing respondent no.2 for dowry in form of Rs. 5,00,000/- out of which Rs.50,000/- were arranged by her. Respondent no.2 was also beaten by the accused for the same. The accused still continued to harass respondent no.2

and Panchayats were convened but to no avail and was even told to form illicit relation with petitioner no.1. When respondent no.2 got pregnant, she was constantly pressurized for a male child but when her health deteriorated, her parents got her admitted to a Nursing Home where she gave birth to a female child. On 29.06.2018, the petitioners along with other accused threw respondent no.2 out of her matrimonial home and did not take her back ever since.

3. Learned counsel for the petitioner *inter alia* contends that the petitioners have been residing separately from respondent no.2 and Naveen Bajaj and they even have a separate government issued ration card as well Aadhar Cards (Annexure P-2) and (Annexure P-3 & 4), respectively. He further submits that the petitioners have been frivolously involved in the FIR (supra) as they never had any role to play in the matrimonial life of respondent no.2. It is further contended that petitioner no.1 & 2 have two daughters of their own and are happily married, therefore, the allegation that they threatened respondent no.2 to beget a male child is laughable.

4. Learned counsel for respondent no.2-complainant contends at the outset that there are specific allegations qua the present petitioners in the FIR (supra) and given the serious nature of the allegations, any interference by this Court is not warranted in the case at hand.

5. Learned State counsel brings into the light the submissions made in the reply dated 07.06.2022 filed by way of an affidavit of Veer Singh, HPS, Dy. Superintendent of Police, City, Karnal, wherein, it is categorically stated that during the investigation there was sufficient incriminating evidence collected by the Investigating Officer, which shows that the petitioners have committed the offences punishable under Sections 34/406/498-A and 506 of IPC and therefore, no interference is warranted by this Court.

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioners have been living separately from respondent no.2 and had no role to play in her matrimonial life. Further, petitioner no.1 and 2 are parents of two daughters and even after their birth, petitioner no.2 has been happily residing with petitioner no.1. The allegations levelled by respondent no.2 against the petitioners, although serious in nature, are far stretched and their involvement has been limited to merely bald allegations.

7. Pertinently, a two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta v. State of Jharkhand (2010) 7 SCC 667*** quashed the complaint 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.”

8. 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...”

9. 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.”

10. 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.

11. In view of the above ratio of law and the facts and circumstances of the present case, this petition is allowed and FIR No. 1258 dated 10.10.2018 registered under Sections 406, 498-A, 506 and 34 of the Indian Penal Code at Police Station Karnal City, Karnal is hereby quashed qua the petitioners.

(HARPREET SINGH BRAR)
JUDGE

09.04.2024
Neha

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