

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

CRM-M-43292-2020 (O&M)
Date of decision: 02.04.2024

Rupali MalhotraPetitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Munsih Mittal, Advocate
for the petitioner

Mr. Vikas Bharadwaj, AAG, Haryana

HARPREET SINGH BRAR, J.

1. The present petition has been preferred under Section 482 of the Cr.P.C. seeking quashing of FIR No. 380 dated 17.3.2020 registered under Sections 498-A, 406, 323 and 506 of the IPC at Police Station Jagadhri City, Yamunanagar.

2. The marriage between Rahul Malhotra, brother of the petitioner, and respondent no. 2 was solemnised on 06.11.2011 according to Hindu rites and rituals and a male child namely Akshaj was born out of the wedlock. However, matrimonial dispute ensued and the FIR (supra) was registered on the allegations that the accused harassed respondent no. 2 for dowry. The dowry articles and *istridhan* of respondent no.2 also remained with them. In the month of July, 2013, on insistence of her husband and mother-in-law, the parents of respondent no. 2 gave Rs. 2,28,000/- to them. In the first week of June, 2014, her husband, on asking of the petitioner and his mother, gave beatings to

respondent no. 2 and shunted her out of her matrimonial home. She was made to board a train for Jagdhari and told to bring Rs. 1,00,000/- from her parents in order to be let back into their house. In the month of February, 2016, the accused gave severe beatings to respondent no. 2 as she had failed to meet their demands for money and was starved and confined to her room for a week. She was turned out of her matrimonial home yet again on 13.07.2016, in spite of Panchayat interventions. Subsequently, respondent no. 2 filed a petition for divorce under Section 13-B of the Hindu Marriage Act, 1955 which was dismissed on 28.08.2018.

3. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnised on 01.02.2005, much prior to the marriage of respondent no.2 and she has been happily residing in her matrimonial home in Saharanpur and no specific allegations levelled against her. Respondent no.2 had also received back all the dowry articles before filing of the petition under Section 13-B of the Hindu Marriage Act, 1955 and a copy of the receipt is available at Annexure P-2. He further submits that the mother of the petitioner was admitted in Chhatarpati Shivaji Subharti Hospital, Meerut on 12.07.2016 and was discharged on 22.07.2016 (Annexure P-4). The petitioner was involved in tending to her mother and as such, the claim that respondent no. 2 was severely beaten on 13.07.2016 is completely fictitious. Lastly, respondent no. 2 had an extra-marital affair with one Himanshu Kapoor who had threatened to kill the brother of the petitioner to divorce her. An application in this regard was moved before SSP, Ghaziabad by the brother of the petitioner, in furtherance of which an unconditional apology dated 28.07.2017 (Annexure P-7) was tendered by Himanshu Kapoor.

4. Having heard the learned counsel of the parties and after perusing the record with their able assistance, it is transpires that the petitioner is the sister-in-law of respondent no.2-complainant. 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.”

5. 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...”

6. 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."

7. 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.

8. It appears that the petitioner has been happily residing in her matrimonial home in Saharanpur since her marriage was solemnised on 01.02.2005, whereas respondent no. 2 lives in Ghaziabad. Nothing available on the record has assisted in establishing involvement of the petitioner in the marital life of respondent no.2. The vague and omnibus allegations levelled against the petitioner seem to be motivated by mere private spite and vendetta.

9. Accordingly, this petition is allowed and FIR No.380 dated 17.03.2020 registered under Sections 498-A, 406, 323, 506 of the IPC at Police Station Jagadhri City, Yamunanagar is hereby quashed qua the petitioner.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

02.04.2024
Neha

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