



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

**CRM-M-38286-2019
Date of decision: 20.08.2024**

Vijay Kumar

...Petitioner

versus

Jasbir Joshi@ Jasbir Chand Joshi

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sushant Kareer, Advocate
for the petitioner.

Mr. Dinesh Maurya, Advocate
for the respondent.

HARPREET SINGH BRAR J.(Oral)

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') against criminal complaint bearing no. COMI 43/2017 dated 14.07.2017 filed under Sections 406, 498-A read with Section 34 of the IPC as well as order dated 09.08.2019(Annexure P-2) vide which the petitioner has been summoned to face trial.

2. Brief facts of the case as alleged are that the marriage between Kavita, daughter of the respondent and Aashutosh Bhatnot, nephew of the petitioner was solemnized on 28.09.2014, in accordance with Hindu rites and rituals. The match was arranged by the petitioner. Subsequently, Kavita found out that Aashutosh Bhanot has been residing in the United Kingdom illegally. Aashutosh Bhanot began pressurising Kavita to bring Rs.20,00,000/- from her parents as he wanted to apply for visa to some country. On her refusal, she was beaten and harassed by her husband and parents in law. In order to save Kavita's marital life, the respondent paid a

total of about Rs. 15,00,000/- to the accused. The accused began demanding



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more money, however, on her refusal, they physically assaulted her. Ultimately, in April, 2016, Kavita was shunned out of the matrimonial home. The *stridhan* of the daughter of the respondent was also kept by the accused, who refused to return the same.

3. Consequently, the complaint (supra) was filed and on the basis of all the material available on the record, vide impugned order dated 09.08.2019, the petitioner was summoned to face trial for commission of offences punishable under Sections 406, 498-A IPC on 13.09.2019.

4. Learned counsel appearing for the petitioner inter *alia* contends that the learned Court below has erred in summoning the petitioner for trial in the complaint (supra) as no overt act has been attributed to him. He further avers that the allegations levelled against the petitioner lack specificity as no time, date and place when the alleged cruelty was meted out by the petitioner, is mentioned in the complaint(supra) or statement of the daughter of the petitioner. Further, according to the complaint (supra), Aashutosh Bhanot raised a demand for money from the daughter of the respondent in order to pay the petitioner as he had purchased a second hand car from him. It is evident that the petitioner has been arraigned as an accused by the virtue of being the mediator (*vichola*) for the match. Learned counsel places reliance upon the judgments rendered in ***Pepsi Food Ltd. and another vs. Special Judicial Magistrate and others (1998) 5 SCC 749; Michael Machadeo and another vs. CBI and another 2000(2) R.C.R. (Crl.) 75; Mohd. Shafi vs. Mohd. Rafiq 2007(2) R.C.R. (Crl.) 762; Sarabjit Singh vs. State of Punjab, 2009(3) R.C.R.(Crl.) 388 and Lal Suraj @ Suraj Singh vs. State of Jharkhand, 2009(1) R.C.R.(Crl.) 504.*** Finally, the drill of



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with.

5. *Per contra*, learned counsel for the respondent submits that the petitioner has been specifically named in the complaint (*supra*). Moreover, he played an active part in harassing the daughter of the respondent in lieu of demand of dowry. The impugned order has been passed in accordance with law and on correct appreciation of the material available on record and thus, no interference is warranted by this Court.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner is the uncle (*mama*) of the husband of the respondent's daughter, and acted as a mediator (*vichola*) for their marriage. As a matter of fact, the petitioner does not reside in the matrimonial home of the daughter of the respondent. The allegations qua beating the daughter of the respondent in April 2016 are unfounded as the petitioner was in the United States at the time and only returned on 08.09.2016, as reflected by his passport (Annexure P-3). Mere vague and omnibus allegations, as leveled in the compliant (*supra*), do not breach the threshold as is necessary to summon the petitioner as an accused. In the absence of any cogent evidence, there is no justified reason to summon the petitioner.

7. Furthermore, a two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta vs. 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:



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. Furthermore, a two Judge bench of the Hon’ble Supreme Court in ***Girdhar Shankar Tawde vs. 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 vs. 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 2024(1) R.C.R.(Criminal) 70*** 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 discussion above, the instant petition is allowed and the criminal complaint bearing no. COMI 43/2017 dated 14.07.2017 registered under Sections 406, 498-A read with Section 34 of the IPC and all subsequent proceedings arising therefrom, including summoning order dated 09.08.2019, are quashed qua the petitioner.

(HARPREET SINGH BRAR)
JUDGE

20.08.2024
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