



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

**CRM-M No.46697 of 2023
Date of Decision: 07.05.2024
Reserved on: 19.04.2024**

Ram Vir Singh and another ... Petitioners

Versus

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Prarthana Duggal, Advocate,
for the petitioners.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

Mr. Rajender Singh Malik, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of Cr.P.C. by the petitioner seeking quashing of FIR No.767 dated 24.12.2019 registered under Sections 323, 34, 498-A, 504, 506 and 406 of IPC at Police Station Yamuna Nagar City, District Yamuna Nagar, and all the subsequent proceedings having emanated therefrom including challan.

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant Kritika Gandhi alleging therein that she had been working in a company at Gurugram wherein she happened to meet Shiv Partap Singh son of the present petitioners, who

2024-PHHC-065166



was also working there. Friendly relations were developed between them and they started dating each other. Shiv Partap Singh subsequently proposed marriage to her. She apprised her parents about this fact and who talked to the parents of Shiv Partap Singh and thereafter their marriage was finalized. Roka ceremony took place on 14.01.2015. The marriage was solemnized on 24.02.2016. She alleged that huge amount of money was spent at the time of roka ceremony and marriage ceremonies. Dowry articles given by her parents at the time of marriage in the form of furniture, TV, fridge, washing machine, AC, utensils and clothing etc. which were sent by her parents to the rented accommodation of her husband at Gurugram. She was taken to parental village of her husband in District Agra, U.P. after the marriage and was shocked to see the low living standard of her in-laws family to that extent that even electricity facility was not there and they were living in a very deteriorated condition. She alleged that on the very next morning, her parents-in-law started quarreling with her husband by saying that the complainant had not brought dowry as per their status. She was shocked to hear this but her husband pacified her and brought her back to Gurugram on the very next day.

3. As per the further allegations, her parents-in-law had been making calls to her parents raising demand of dowry and also raising issue qua their being of different caste. Her husband started taking away her entire salary from her on the instigation of his parents. She was made to bear all her household expenses by herself. She alleged that her husband on instigation of the petitioners pressurized her to bring a sum of Rs.20 lacs from her parents to buy a house at Noida and on her refusal, she was

2024-PHHC-065166



physically as well as mentally tortured by him. As per the further allegations, her parents-in-law i.e. the present petitioners often used to visit Gurugram and due to their instigation, matrimonial discord kept on taking place between her husband and herself. She had conceived in January 2018. The petitioner No.2 forced her to visit their village and on reaching there, she was forced to perform some occultist customs. The behaviour of her husband even worsened thereafter and he did not take care of her at all. An amount of Rs.1 lac was given by her father to her husband in May 2018 but that did not satisfy her husband or her parents-in-law i.e. the present petitioners. During the last stages of her pregnancy, the petitioners came to stay with her at Gurugram but the petitioner No.2 kept on torturing her and making her do all the household work.

4. The complainant further levelled allegation in the FIR that the petitioners and her husband were not happy when she delivered a female child. On 04.01.2019 she had gone to her parental house to attend some marriage. Her husband did not come to take her back and when she herself went to her matrimonial house, she was physically assaulted. She somehow saved herself and went to her parental house. The petitioners and her husband proclaimed that they will not keep her unless their demand of Rs.20 lacs was met with. Her husband even started living somewhere else during her absence. While alleging that petitioner No.1 used to make sexual overtures towards her and that her in-laws had kept her entire istriddhan with them, she prayed for taking action against them.

5. After registration of FIR, investigation proceedings were initiated. The petitioners were extended benefit of bail and joined

2024-PHHC-065166



investigation. After completion of necessary investigation and usual formalities, challan was presented and presently, they along with their son are facing trial for commission of the offences punishable under Sections 323, 34, 498-A, 504, 506 and 406 of IPC. The offence under Section 354-A of IPC had been deleted during the course of investigation.

6. The present petition has been filed by the petitioners on the grounds and it is argued by their counsel that they have been falsely implicated in this case. A very simple marriage was performed between their son and respondent No.2-complainant. It was the respondent No.2 who was of quarrelsome nature and used to get angry over petty issues. Immediately, after her marriage, he had started residing with their son at Gurugram. She had left her matrimonial house at her own, in the year 2019 and started residing separately. Due to intervention of elders of the family, she started residing with her husband again but then left in November 2020. False, general and vague allegations had been levelled against them, though they had been residing away from the respondent No.2. The FIR of this case was previously cancelled and even report dated 26.09.2020, had been prepared in this regard in pursuance of a compromise arrived at between the respondent No.2 and her husband but she had moved an application for re-investigation of the case subsequently only to harass the petitioners and to wreak vengeance. They had no role to play in the matrimonial life of respondent No.2 since the very beginning as it was a case of love marriage between their son and the respondent No.2. They have even disowned their son. The petitioners were not going to derive anything by raising demand of Rs.20 lacs as alleged by respondent No.2. No dowry article had been entrusted to

2024-PHHC-065166



them since as per the version of respondent No.2 herself, all her dowry articles had been sent by her parents directly to rented accommodation at Gurugram wherein the respondent No.2 lived with her husband and, therefore, there was no question of their misappropriating the same or converting it to their own use. No specific instance along with details of date or month etc. when the petitioners had caused hurt to respondent No.2 had been quoted in the FIR. The allegations qua commission of offences under Sections 504 and 506 of IPC have also not been made out as against them. With these broad submissions, learned counsel for the petitioners argued that the FIR was liable to be quashed.

7. Learned State counsel assisted by learned counsel for respondent No.2, on the other hand, argued that there were serious allegations against the petitioners as they along with the husband of respondent No.2 tortured her physically as well as mentally in order to fulfill their demand of dowry. It was further argued that even if the contentions as raised by respondent No.2 are disputed, veracity thereof can be tested in trial before the trial Court. A prima facie case is made out disclosing the ingredients of commission of subject offences and, therefore, it is urged that the FIR does not deserve to be quashed.

8. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

9. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different

2024-PHHC-065166



High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as **State of Haryana vs. Bhajan Lal**, 1992 SUPP (1) SCC 335, wherein several guidelines have been laid down and are reproduced as under:

“102 (1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) Where the uncontroverted allegations made in

2024-PHHC-065166



the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

2024-PHHC-065166



Punjab, (2012) 10 SCC 303, wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reliance can further be placed upon **State of Andhra Pradesh vs. Gourishetty Mahesh and others**, 2010 Criminal Law Journal 3844, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

11. Having noticed the scope of interference by this Court in the petitions relating to quashing of FIR/charge-sheet, let us revert to the facts of the present case as per which, the petitioners who are father-in-law and mother-in-law respectively of respondent No.2 had tortured her along with her husband on account of unlawful demand of dowry and had subjected her to cruelty. Before delving into the greater detail on the nature and contents of the allegations made, it may be mentioned that Section 498-A of IPC was incorporated with the aim to prevent cruelty committed upon woman by her husband and in-laws, by facilitating rapid state intervention. It, however, cannot be ignored that there is increased tendency to the alarming extent in applying the provisions of Section 498-A of IPC. In the landmark judgment

2024-PHHC-065166



of Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar and another**, (2014) 8 SCC 273, it was observed that there is a phenomenal increase in matrimonial disputes in recent years. Section 498-A of IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. However, the fact that Section 498-A of IPC is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by the disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. There is increased tendency of implicating relatives of the husband in matrimonial disputes without analysing the ramifications of a trial on the complainant as well as the accused. False implication by way of general, omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of process of law.

12. At this juncture, it would be proper to refer to the provisions of Section 498-A of IPC which read as under:-

"498-A. Husband or relative of husband or a woman subjecting her to cruelty. - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

The 'Explanation' appended thereto defines cruelty to mean : (i) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or (ii) harassment of

2024-PHHC-065166



the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

13. Thus, the essential ingredients of the aforementioned provision are:

1. A woman must be married.

2. She must be subjected to cruelty.

3. Cruelty must be of the nature of :

(i) any willful conduct as was likely to drive such woman:

a. to commit suicide;

b. cause grave injury or danger to her life, limb, either mental or physical;

(ii) harassment of such woman, (1) with a view to coerce her to meet unlawful demand for property or valuable security, (2) or on account of failure of such woman or by any of her relation to meet the unlawful demand,

(iii) woman was subjected to such cruelty by : (1) husband of that woman, or (2) any relative of the husband.

14. On considering the allegations as levelled in the FIR lodged by respondent No.2, this Court finds that the allegations as levelled therein do not enable this Court to arrive at, even to a prima facie opinion that the petitioners committed any offence punishable under Section 498-A of IPC. A cursory perusal of contents of the FIR reveals that sweeping allegations have been levelled not only as against the petitioners but against the husband of respondent No.2 as well. Admittedly, the respondent No.2 along with her

husband had stayed at native village of the latter wherein the petitioners

2024-PHHC-065166



were residing, only for one night and just next day, she had gone to Gurugram wherein she had started residing with her husband in a rented accommodation. Rather it is she who is shown to have found fault in the living standard of the petitioners by alleging in the FIR itself that they were living in a deteriorated condition without even having facility of electricity. The allegations that her parents-in-law quarrelled with her husband on the very next day for not bringing dowry as per their status do not show that it was she who had been taunted by them on that account.

15. With regard to the demand of sum of Rs.20 lacs from her parents, the allegations are that the same was raised by her husband on instigation of her in-laws. She did not quote any specific date and month when such demand was raised by the petitioners. General allegations against the petitioner No.2 are that she made her to do entire household work during her pregnancy and used to make complaint about the respondent No.2 to her husband. No specific and direct allegations have been levelled against them to describe the nature of cruelty or the harassment alleged to have been made by the present petitioners or any such willful act and conduct on their part which could have driven the respondent No.2 to commit suicide. These allegations can at the best be said to have been made on account of small skirmishes. The petitioners were ordinarily staying in their native place at Mainpuri, Uttar Pradesh and not at Gurugram with the respondent No.2 and her husband. The allegation with regard to the demand of Rs.20 lacs is also mainly as against the husband of the respondent No.2 and not against them. On the basis of the allegations levelled in the FIR, it cannot be stated that the petitioners were subjecting her to cruelty to meet any demand of money or

2024-PHHC-065166



dowry or were committing any such willful act or conduct which were likely to drive her to commit suicide or to cause physical as well as mental harassment to her. Upon consideration of the relevant circumstances, this Court is of the opinion that it would be unjust, if the petitioners are forced to go through the tribulations of a trial for commission of offence punishable under Section 498-A of IPC. The allegations which are general and omnibus in nature against them cannot manifest in a situation wherein relatives of the husband of the complainant are forced to trial. More so, it cannot be mentioned that they could be the beneficiaries of demand of sum of Rs.20 lacs as alleged to have been raised by them from respondent No.2. In view of this discussion, this Court is inclined to hold that the requisite ingredients with regard to commission of offence punishable under Section 498-A of IPC are not disclosed from the allegations as levelled in the FIR and, therefore, the proceedings initiated against the petitioners under this section are liable to be quashed.

16. So far as the allegations that the petitioners committed offence punishable under Section 406 of IPC is concerned, this section provides punishment for commission of offence of criminal breach of trust as defined under Section 405 of IPC. This offence may be held to have been committed when a person who had been entrusted in any manner with the property or has otherwise dominion over it, dishonestly misappropriates it and converts it to his own use, or dishonestly uses it or disposes it of, in violation of any direction of law prescribing the mode in which the trust is to be discharged, or of any lawful contract, expressed or implied, made by him touching any discharge, or wilfully suffers any other person to do so. In this case, even on

2024-PHHC-065166



taking allegations as levelled in the FIR to be correct on their face value, in the opinion of this Court, the same do not make out a prima facie case as against the petitioners for having dishonestly misappropriated the istridhan of respondent No.2, as no istridhan or property belonging to the complainant was even alleged to be handed over to them thereby committing criminal breach of trust punishable under Section 406 of IPC. Since the allegations in the FIR itself do not make out as to what particular kind of istridhan belonging to respondent No.2 had been entrusted to which particular petitioner, therefore, not only the allegation qua entrustment of property or its misappropriation by the petitioners which is the pre-requisite of offence under Section 406 of IPC is lacking but also that which particular petitioner or the co-accused misappropriated the same has also not been shown. Therefore, in the opinion of this Court, prosecution of the petitioners for commission of offence punishable under Section 406 of IPC is also not proper.

17. So far as the offence punishable under Section 323 of IPC is concerned, on going through the allegations in the FIR, it is clearly revealed that there is no specific allegation as to on which particular date, month and year, the petitioners had caused any physical hurt to respondent No.2. No specific overt act has either been attributed to them on this count. There is also nothing on record to show that respondent No.2 got herself medically examined at any point of time during her stay at her matrimonial home. As such, the prosecution of the petitioners under Section 323 of IPC can also not be stated to be proper.

18. So far as the allegation qua commission of offence punishable

2024-PHHC-065166



under Section 504 of IPC is concerned, this provision comprises of the following ingredients viz.:

- (a) intentional insult,
- (b) insult must be such as to give provocation to the person insulted, and
- (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence.

19. On going through the contents of the FIR, no case for commission of the aforementioned offence as against the petitioners can be stated to have been made out under the above provision as well and, therefore, the prosecution of the petitioners under this Section would also certainly amount to misuse of process of law.

20. Both the petitioners along with the co-accused have also been challaned and charge-sheeted for commission of offence punishable under Section 506 of IPC. For the purpose of proving charge under Section 506 of IPC, it is required to be shown that the accused had threatened the victim with injury to his/her person, reputation or property; that he did so with intent to cause alarm to the victim and that he did so to cause the complainant to perform any act which he/she was not legally bound to do. The gist of offence under Section 506 of IPC is the effect, which the threat is intended to have upon the mind of the person so threatened. It is necessary that the threat given is real and the person giving the threat means it. The threat should be a real and not just a mere word when the person uttering it does exactly mean what he says. Empty threats do not mean that any case

2024-PHHC-065166



under Section 506 of IPC is made out. An offence under this section by spoken words cannot be made out unless it is proved that these words were uttered with specific intention. In this case, however, the allegations do not make out that any threat thereby causing alarm to the respondent No.2, had been extended by the petitioners nor the specific dates, months or year(s) of extension of such threat by them, have been quoted. As such, the prosecution of the petitioners under these provision also amount to abuse of process of law.

21. In addition to the discussion as made above, there is one more important factor which requires consideration. Annexure P-4 is copy of a compromise shown to have been arrived at between the respondent No.2 and her husband Shiv Partap Singh as on 06.09.2020 i.e. after lodging of this FIR, which shows that both of them admitted that there were differences in their temperaments and behaviour. One of the terms of these compromise deed is that, the parents of either of the parties will not interfere in the married life of the parties and they would live together peacefully. Then from a perusal of Annexure P-3 which is copy of challan report filed under Section 173 of Cr.P.C. it is revealed that even cancellation report was prepared in this case on 26.09.2020 but subsequently, the respondent No.2 filed a fresh complaint on the basis of which re-investigation had started and offence under Section 406 of IPC had been added only later on. The respondent No.2 had been allegedly thrown out of her matrimonial house in January 2019. However, FIR was lodged only in December 2019. During this period of about 11 months, she did not choose to make any complaint against the petitioners in relation to dowry harassment. The exposure of the

2024-PHHC-065166



petitioners to her was only when they visited Gurugram occasionally. It is not her case that they were frequently visiting her rather she herself alleged in the FIR that her mother-in-law came to live at her matrimonial house at Gurugram just before her delivery, which gives rise to the inference that the same had been lodged after making due deliberations and concoctions and with a view to harass the present petitioners. In view of the discussion as made above, since it appears that the allegations made in the FIR and the evidence collected during investigation do not satisfy the ingredients of the subject offences, therefore, the harassment of the petitioners in a criminal Court for nothing should not be encouraged by this Court. Reliance in this context can be placed upon **Onkar Nath Mishra and others v. State (NCT of Delhi) and another**, 2008 (1) RCR (Criminal) 336 and **Devendra and others v. State of U.P. and another**, 2009 (7) Scale 613, wherein it was observed so.

22. As informed by learned State counsel, charges have been framed in this case. However, it is well settled proposition of law that the Court may pass order for quashing of charge also if it finds that further prosecution of an accused would amount to abuse of process of the Court or that the interest of justice favours ofcourse such power is to be exercised to do real and substantial justice for administration of which alone, the Court exists. In this regard, reliance can be placed upon **Taramani Parakh vs. State of M.P. and others**, 2015 (2) RCR (Criminal) 445.

23. Given the totality of the facts and circumstances, I am of the considered opinion that the allegations as levelled by the complainant against the petitioners, as they are, are wholly insufficient and prima facie,

2024-PHHC-065166



do not make out a case against them. As such, permitting the criminal process to go on against the petitioners in such a situation, would, therefore, result in clear injustice and hence, it is a fit case for this Court to exercise its inherent powers under Section 482 of Cr.P.C. and to quash the FIR and consequential proceedings as against the petitioners and it would be unjust to force them to face the ordeal of the trial for commission of the aforementioned offences. Accordingly, FIR No.767 dated 24.12.2019 registered under Sections 323, 34, 498-A, 504, 506 and 406 of IPC at Police Station Yamuna Nagar City, District Yamuna Nagar and the consequential proceedings arising therefrom, are ordered to be quashed qua the present petitioners only and the petition stands allowed.

07.05.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No