



CRM-M-53675-2022 (O&M)

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236 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-53675-2022 (O&M)

Date of Decision: 30.09.2024

SEEMA SAINI AND ANOTHER

...PETITIONERS

Versus

STATE OF PUNJAB

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anupam Bhardwaj, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Achin Gupta, Advocate and
Mr. Karan Yadav, Advocate for the complainant.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 35 dated 18.11.2020 registered under Sections 406 and 498-A of Indian Penal Code at Police Station NRI, District SAS Nagar, Mohali and all subsequent proceedings arising therefrom qua the petitioners.

2. Facts, tersely put, are that father of the complainant, namely Baldev Singh (General Power of Attorney holder), moved an application before the concerned police, wherein, it was alleged that the marriage of Harkirat Singh, who is the brother of the petitioner No. 1 and son of petitioner No. 2, was solemnized with his daughter on 07.02.2013. At the time of their marriage, various dowry articles including gold ornaments were entrusted to the accused persons. On 28.02.2013, the couple moved to New Zealand. Out of the wedlock, a son was born on 08.02.2014 at Auckland, New Zealand but unfortunately, the child was crippled from birth. Thereafter, the behaviour of Harkirat Singh (husband) changed and he started maltreating and beating the victim. In addition, the

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present petitioners harassed her by demanding a Swift car and a plot in Mohali as dowry. The application moved by Baldev Singh culminated into FIR (supra).

3. Learned counsel for the petitioners *inter alia* contends that the petitioners are the married sister-in-law (*Nanad*) and mother-in-law (*Saas*) of complainant- Ramandeep Kaur and petitioner No. 1 is living in Amritsar for the last 17 years after her marriage along with her in-laws family and petitioner No. 2, who is mother-in-law of complainant, is an old women of around 72 years of age, living at Hoshiarpur. Further submitted that the complainant along with his husband left for New Zealand on 28.02.2013, i.e., after 20 days of marriage and even prior to their marriage, both of them have been residing in New Zealand. It is further contended that neither any specific allegation of demand of dowry nor any specific entrustment of dowry articles has been alleged against the present petitioners. It is also argued that perusal of the FIR (supra) shows that allegations levelled by the complainant pertain to acts committed in New Zealand and therefore it is not maintainable before a court of law in India. He further submits that marriage between Harkirat Singh and the complainant has been dissolved vide order dated 01.10.2022 (Annexure P-2) passed by Family Court at Wellington, New Zealand on account of mutual settlement.

4. Per contra, learned counsel for the complainant vehemently opposes the prayer made by learned counsel for the petitioners. He contends that there are specific allegations of harassment for dowry as well as specific entrustment of dowry articles against the petitioners. He further submits that whenever petitioner no.2 (mother-in-law) visited the couple in New Zealand, she used to maltreat and beat the complainant. When the complainant visited India in November 2014 for 2 months, she was harassed for dowry by the petitioners and even the dowry art-

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icles were misappropriated by them. It is also contended that petitioner no.1 (sister-in-law) has been residing at Hoshiarpur since 2014 and her children are enrolled at St. Soldier Divine School, Hoshiarpur. He further argues that contentions of the petitioners are a matter of trial and no interference is warranted by this Court.

5. Learned State counsel has reiterated the submissions made in the reply given in form of affidavit of Gurvinder Singh, Deputy Superintendent of Police, NRI Wing, SAS Nagar, Mohali. It is submitted that as per the preliminary inquiry conducted by S.H.O., NRI Police Station, SAS Nagar, Mohali, petitioner no.1 has been residing at her parental home with petitioner no.2 since 2015. He further submits that police report was filed after a detailed inquiry where allegations against the petitioners were duly substantiated.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance. It is trite law that High Court should not go into disputed questions of fact while exercising its inherent power under the Code of Criminal Procedure as the same should be used with parsimony. However, when it so needed to secure the ends of justice, the High Court must not be circumspect to delve into facts and circumstances of the case in entirety where the allegations levelled in FIR/Complaint are frivolous and emerge from an unscrupulous intent. Quite recently, a two-judge Bench of the Hon'ble Supreme Court in the case of *Achin Gupta vs State of Haryana and Anr., 2024(2) R.C.R(Crl.) 880*, proceeded to quash the proceedings even against the accused-husband arising out of an FIR under Section 323, 406, 498A, 506 of IPC on the grounds that allegations lacked specificity and the FIR was vexatiously registered 2 years



after the divorce proceedings. Speaking through Justice J.B. Pardiwala, following observations were made which are pertinent to the case at hand :-

“19. It is also pertinent to note that the Respondent No. 2 lodged the FIR on 09.04.2021, i.e., nearly 2 years after the filing of the divorce petition by the Appellant and 6 months after the filing of the domestic violence case by her mother-in-law. Thus, the First Informant remained silent for nearly 2 years after the divorce petition was filed. With such an unexplained delay in filing the FIR, we find that the same was filed only to harass the Appellant and his family members.

20. It is now well settled that the power under Section 482 of the Cr.P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr.P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice.

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25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

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29. The learned counsel appearing for the Respondent No. 2 as well as the learned counsel appearing for the State submitted that the High Court was justified in not embarking upon an enquiry as regards the truthfulness or reliability of the allegations in exercise of its inherent power under Section 482 of the Cr.P.C. as once there are allegations disclosing the commission



of a cognizable offence then whether they are true or false should be left to the trial court to decide.

30. In the aforesaid context, we should look into the category 7 as indicated by this Court in the case of Bhajan Lal (supra). The category 7 as laid reads thus: -

“(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.”

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35. In one of the recent pronouncements of this Court in **Mahmood Ali & Ors. v. State of U.P & Ors., 2023 SCC OnLine SC 950**, authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482 of the CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC 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. Reverting back to the facts of the present case, it transpires that the petitioners, who are sister-in-law and mother-in-law of complainant respectively, have barely lived with the complainant under the same roof. On 28.02.2013, merely 20 days of their marriage, the complainant and her husband moved back to New Zealand. Thereafter, the complainant only visited India in November

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2014 for 2 months and it has been alleged that during those 2 months, the present petitioners harassed her for dowry, beat her, and misappropriated her *Istridhan* while her stay at her matrimonial home in Hoshiarpur. However, no complaint was filed by the complainant or her father in the year 2014. Moreover, at that time, petitioner no.1 being the married sister-in-law was residing at her matrimonial home in Amritsar and she only moved back to her parental home in Hoshiarpur in 2015, as per the preliminary inquiry conducted by the concerned police. It has also come to the fore that the couple invoked jurisdiction of the Family Court at Wellington, New Zealand and got their marriage dissolved vide order dated 01.10.2022 on account of joint settlement. Despite alleging utmost cruelty at the hands of her husband since March 2014, no criminal prosecution was ever initiated by her in New Zealand, where majority of the alleged harassment occurred. As such, the present case is also squarely covered by the ratio of law laid down by a two Judge bench of the Hon'ble Supreme Court in **Harmanpreet Singh Ahluwalia vs. State of Punjab and Others (2009) 7 SCC 712**, wherein, it was held that when the larger part of the alleged offence has occurred abroad, criminal proceedings cannot continue in India.

8. The complainant spent majority of her married life in New Zealand and resided with the petitioners at her matrimonial home in India for merely 80 days out of 10 years of her marriage, which makes allegations qua harassment for dowry against them rather unlikely. As such, it is evident that criminal prosecution has been initiated by the complainant in India, by means of FIR(supra) lodged through her father (attorney holder), just to satisfy her personal vendetta against the petitioners. The inviolably sacrosanct process of law exists to provide a grievance redressal mechanism to the aggrieved party, which is also instru-



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mental in reposing the faith and trust of the society in the criminal justice system. However, it must be emphasised that the misuse of the same in order to badger the accused on account of souring of relations taints the sanctity of the process, which makes it unequivocally inexcusable. While the Courts exist to ensure vindication of justice, the crippling backlog of cases is no secret. It is in this context that the menace of initiating litigation exclusively motivated by personal spite must be strongly discouraged.

9. Furthermore, the allegations levelled against the petitioners are far too vague and general in nature to inspire confidence. 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, 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.”



10. 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...”

11. Pertinently, 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 ob-



served 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."

12. 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 vs. 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.



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13. It is evident that the petitioners had no active involvement in the matrimonial life of complainant and her husband-Harkirat Singh and they have only been roped in the FIR(supra) by the complainant, out of personal spite, in order to wreak vengeance upon her in-laws family. Accordingly, this petition is allowed and FIR No. 35 dated 18.11.2020 registered under Sections 406 and 498-A of Indian Penal Code at Police Station NRI, District SAS Nagar, Mohali is hereby quashed qua the present petitioners.

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

(HARPREET SINGH BRAR)
JUDGE

30.09.2024
Ajay Goswami

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