

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of order: 15.03.2024

CRM-M-60320-2022(O&M)

Mahinder Kaur

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Arn timer Kumar, Advocate
for the petitioner.

Mr. S.S. Chahal, AAG Punjab.

Mr. Imaan Singh Khara, Advocate
for respondent No.2.

Nidhi Gupta, J.

Prayer in the present petition is for quashing on merits of FIR No.43 dated 10.11.2021 registered under Sections 498-A and 34 IPC at Police Station Women Cell, Bathinda (Annexure P1) along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner/accused inter alia submits that the petitioner is the mother-in-law of the complainant/respondent No.2 herein. Respondent No.2 was married to the son of the petitioner on 05.02.2018. One child was born out of this wedlock who is currently in the care and custody of respondent No.2. It is stated that the parties started living separately soon thereafter.

3. Ld. Counsel contends that the present FIR deserves to be quashed qua the petitioner as respondent No.2 had earlier also lodged a complaint dated 24.12.2020 (Annexure P2) in which the sole accused was the husband of respondent No.2/son of the petitioner. Learned counsel submits that not only has no accusation been made against the petitioner in the said complaint, on the contrary, respondent no. 2 has clearly stated

therein that the petitioner used to try and save the respondent no.2 from her husband. It is submitted that nothing has transpired in the intervening period that could have caused the filing of the present FIR.

4. It is further submitted that thereafter, the matter was compromised between the parties and complaint stood closed vide order dated 18.02.2021 (Annexure P7) passed by DSP, City-2, Bathinda. However, three months thereafter, the complainant has filed the present complaint dated 19.05.2021, on the basis of which present FIR was registered on 10.11.2021. In the present FIR, there were three accused namely husband, father-in-law and mother-in-law (present petitioner) of complainant/respondent No.2. In the investigation, father-in-law of complainant was exonerated and FIR is sustaining only against husband and petitioner i.e. mother-in-law of the complainant.

5. Learned counsel contends that present FIR deserves to be quashed qua the petitioner also for the reason that the Hon'ble Supreme Court since 2020 has consistently held that in allegations against parents-in-law, the Courts have to act in a judicious manner. It is submitted that all the grounds taken by the complainant/respondent No.2 in the present FIR were available to her at the time of filing complaint (Annexure P2). It is stated that therefore, by way of present complaint, respondent No.2 has only sought to make material improvements in her earlier version of events in order to falsely implicate the petitioner and her family. Learned counsel contends that the case of the petitioner is squarely covered in the Exception no.7 carved out by the Hon'ble Supreme Court in case of **"State of Haryana v. Bhajan Lal"**, Law Finder doc id # 45480: 1992 Supp. (1) SCC 335, wherein it has been held as under:-

"Where a criminal proceeding is manifestly attended with malafide 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."

6. Learned counsel also relies upon judgment of Hon'ble Supreme Court in **"Mamidi Anil Kumar Reddy Vs. State of Andhra Pradesh & Anr."** 2024 Law Finder Doc ID # 2492163, relevant part of which is reproduced hereinbelow:-

*"15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In **Kakashan Kausar alias Sonam v. State of Bihar, 2022(1) Law Herald (SC) 741** : [(2022) 6 SCC 599], this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation, if left unchecked, would result in the abuse of the process of law.*

*16. More recently, this Court in **Mahmood Ali v. State of U.P., 2023(3) Law Herald (SC) /1900** : (Criminal Appeal No. 2341 of 2023), while considering the principles applicable to the exercise of jurisdiction u/s. 482 CrPC, observed as follows:*

"12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or 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 for wreaking vengeance, then in such circumstances the Court owes a duty to look into the 'FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well

drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just 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. 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 try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge, as alleged."

*17. Considering the dicta in **Mahmood Ali** (supra), we find that the High Court in this case has failed to exercise due care and has mechanically permitted the criminal proceedings to continue despite specifically finding that the allegations are general and omnibus in nature. The Appellants herein approached the High Court on inter alia grounds that the proceedings were re-initiated on vexatious grounds and even highlighted the commencement of divorce proceedings by Respondent No. 2. In these peculiar circumstances, the High Court had a duty to consider the allegations with great care*

and circumspection so as to protect against the danger of unjust prosecution.”

7. Per contra, Learned State Counsel supported by learned counsel for respondent No.2 submits that charges in the present matter have been framed on 12.07.2023. Thereafter, proceedings in the present case have been stayed vide order dated 09.10.2023 passed by a Co-ordinate Bench of this Court in CRR-2322-2023.

8. At this stage, learned counsel for the petitioner informs that the petitioner had challenged the charge-sheet dated 12.07.2023 before this Court by way of CRR-2322-2023; whereupon further proceedings in the FIR were stayed by order dated 9.10.2023.

9. No other argument is made on behalf of the parties.

10. I have heard learned counsel for the parties and perused the case file in detail.

11. Present FIR was filed on 10.11.2021; whereas the previous complaint (Annexure P2) was filed less than 12 months prior thereto on 24.12.2020. A perusal of the previous complaint (Annexure P2) shows that all the allegations therein pertain to the husband of the complainant. And in respect of the petitioner, not only is there no allegation, on the contrary, it has been categorically stated that *“during this time I became pregnant, but his behavior did not change, while my mother-in-law and father-in-law also tried to explain it a lot, but there was no difference in his behavior.....when my mother-in-law found out, she tried to make my husband understand but his arrogance made no difference. My mother-in-law separated me in another house and they were afraid it would kill us, but later I started living in another kothi, which is in my husband’s name and time passed and my son was born in my house.....I have done my MA B.Ed. He neither allowed me for doing the job nor paid expenses for running the house. Now, he is threatening me through someone that I have to sell the kothi and make you sit on the streets. My husband has made my life worse than hell and I can’t die except for my little son. My mother-in-law looks helpless in front of her and they have to help me. Therefore,*

through the application, it is requested that legal action be taken against my husband for beating me and demanding cash and miscarriage and from my brother for bringing ten-ten thousand and twenty-twenty thousand, he has also taken two and a half lakh rupees.” Thus, from the above, it is clear that in complaint dated 24.12.2020 (Annexure P2), no allegation whatsoever was made against the petitioner. On the contrary, it was clearly acknowledged by the complainant and made known that the petitioner had always *helped* the complainant.

12. It has further not been denied by the complainant that a compromise was entered into thereafter, in which statements of the complainant and her husband (Annexure P3 and P4 respectively) were recorded; and the complaint stood closed vide order dated 18.02.2021 (Annexure P7) passed by DSP, City-2, Bathinda. Barely three months thereafter present complaint was filed on 19.5.2021. What has transpired in the intervening 3 months that has caused such a 360° change in the complainant, has not been answered by counsel for the respondent no.2/complainant, except that it has been repeatedly stated that the petitioner had caused much harassment to respondent No.2. However, no answer is forthcoming regarding the drastic change in stance of the complainant. Thus, it is my clear and considered view that the complainant has merely tried to improve upon her earlier version by including the name of the petitioner in the second round. Hon’ble The Supreme Court has cautioned against precisely this kind of practice whereby relatives of the husband are falsely implicated. In this regard reference may be made to judgment of the Hon’ble Supreme Court in “ **Kahkashan Kausar @ Sonam & Others Vs. State of Bihar & Others**” Law Finder Doc ID # **1941423** has categorically held that “*general and omnibus allegations cannot manifest in a situation where relatives of complainant’s husband are forced to undergo trial - FIR liable to be quashed*”. Relevant Para 17 of **Kahkashan Kausar** (supra) reads as under:-

*“7. Recently, in **K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452**, it was also observed that:-*

"6. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."

Para 12 of **Kahkashan Kausar** (supra) reads as follows:

"12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives."

13. The above view has been reiterated by the Hon'ble Supreme Court in **"Geeta Mehrotra & Another Vs. State of UP & Another"** Law Finder Doc ID # 397283; **"Preeti Gupta & Another Vs. State of Jharkhand & Another"** Law Finder Doc ID # 214039; and **"K. Subba Rao & Others Vs. The State of Telangana & Others"** 2018 (14) SCC 452 Law finder Doc ID # 1141380.

14. Reliance may also be placed upon judgment of the Hon'ble Supreme Court in **'Social Action Forum for Manav Adhikar & Anr. v. Union of India, Ministry of Law And Justice & Ors., (2018) 10 SCC 443'**, wherein it was observed:-

*"3. Regarding the constitutionality of Section 498A IPC, in **Sushil Kumar Sharma v. Union of India and others**, (2005) 6 SCC*

281:AIR 2005 Supreme Court 3100, it was held by the Supreme Court:-

"..... The object of the provisions is prevention of the dowry menace. But many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame-work."

15. Moreover, perusal of FIR shows that vague, general and unsubstantiated allegations have been made therein against the petitioner to the effect that *".....after some days of the marriage, my sister-in-law Manjeet Kaur started saying to me that you should hand over all your jewellery to my mother, whenever you need them, you would be given and I have handed over my entire jewellery to my sister-in-law, who has given my entire jewellery to my mother-in-law, which she has not given me to wear and all my jewellery is in the possession of my mother-in-law.3)That after some time of the marriage, my husband, mother-in-law, father-in-law and sister-in-law starting saying that your parents have not given us gold jewellery and other goods to us as per our demands, due to which they are starting teasing me and my husband and on the provocation of my mother-in-law, father-in-law and sister-in-law, my husband use to beat me.....On the provocation of my mother-in-law, father-in-law and sister-in-law, my husband has beaten me.....That in February 2021, my husband does not come to home and was not doing any take care of me and my child. And my*

mother-in-law, father-in-law, without any reason, kept on harassing me by giving taunts and they have made it difficult to live by me and I was passing the time with very difficult but my husband, mother-in-law, father-in-law said to me that till the time, you would not give us Rs.10 lakh so that we could buy gold jewellery and other goods for our son-in-laws/jawaians...".

16. Above is the sum total of the allegations made against the petitioner. Bare perusal of the above allegations shows that the same are vague and general in nature and appear to be a desperate attempt on part of the complainant to somehow or the other embroil the petitioner. Even if each allegation is examined on its own, it does not inspire the confidence of this Court. As per the first allegation, after some days of the marriage the petitioner had taken away her entire jewellery. The other allegation pertaining to the petitioner is that it was on her provocation that complainant's husband used to beat her up. However, on the face of it, these are vague and unspecific as no details regarding date, time and place of occurrence have been mentioned.

17. In these circumstances, reference may be made to judgment of this Court in **"Azad Singh Ghangas Vs. Suman Kumari"** Law Finder Doc ID # 775236, wherein it has been held as under:-

"Criminal Procedure Code, 1973 Section 482 Protection of Women From Domestic Violence Act, 2005 Section 2 (s) Quashing of complaint filed under Domestic violence - Only allegation against petitioner is that he used to taunt complainant that she failed to brought sufficient dowry which according to her is emotional abuse - No specific date or year of incident mentioned - Allegations made with ulterior motive in order to rope in rest of family - Magistrate to take into consideration all facts before summoning accused - No justification for summoning petitioner - Making certain allegations against petitioner by itself not amount to Domestic Violence in absence of any material to show that they shared house hold - No proof that petitioner living with complainant at

any point of time - Thus, proceedings initiated against petitioner and also complaint filed by respondent against petitioner abuse of process of law - Hence, complaint liable to be quashed."

(Emphasis added)

18. Similar view has been taken by this Court in **"Subeg Singh Vs. State of Punjab"** Law Finder Doc ID # 42515, relevant part of which is reproduced hereinbelow:-

*"5. According to the counsel except for the above-mentioned note wherein it has been mentioned that the first complaint was got dismissed in default on account of assurance of a compromise given to her, there is no reference in this regard in the body of the complaint. It has not been stated as to when such an assurance was given to her and in whose presence. Names of persons constituting such brotherhood also does not find mention in the complaint. The precise date and time when such a body of brotherhood assembled or took such other steps in persuading the petitioners and other accused finds no mention in the complaint. Since these material averments are lacking in the complaint, the Magistrate erred in law in entertaining the same and passing an order for summoning of the petitioners and Jaspal Singh. According to the counsel, even the Judicial Magistrate has not assigned any reason for entertaining this second complaint. Support was sought from the decision of this Court in **Lekhraj Kukreja & Anr v. Mrs. Rayman, 1991(3) Recent Criminal Reports 217.**"*

19. It is only in Para 6 of the FIR that a specific month and year has been mentioned and it has been stated that in 'February 2021', the petitioner along with other accused kept on harassing respondent No.2/complainant by giving taunts and had made it difficult for the complainant. However, this too is rendered doubtful in view of the fact that the complainant had recorded her statement attesting to the compromise

on 19.01.2021 (Annexure P3); and simultaneously she is alleging as above. Clearly, therefore, there is no truth to the above allegations and the same have been made by the complainant only for making improvement in her case.

20. Moreover, it was open to the complainant/respondent No.2 to mention these allegations in her previous complaint (Annexure P2). However, that has not been done. Ld. Counsel for the complainant has been unable to give any reply whatsoever, let alone a satisfactory reply, as to why these allegations were not contained in the previous complaint. This casts a shadow of doubt regarding the veracity of the same.

21. In such a situation, reference may be made to judgment of this Court in **“Krishan Kumar Vs. State of Haryana & Another” Law Finder Doc ID # 1524141**, relevant part of which is reproduced hereinbelow:-

“8. A reading of the FIR dated 24 dated 24.09.2015 invoked under Sections 323, 406, 506 and 498A IPC, which is available on the record as Annexure P-3, reveals that allegations have been raised regarding demand of dowry and cruelty. The FIR registered on 24.09.2015 makes no mention of the fact that she had been subjected to un-natural sexual intercourse during her marriage let alone on 06.08.2015. If such was the case, there was no one stopping the respondent from alleging the same when the FIR was registered in September 2015. Even the two petitions-one, under Section 12 of the Domestic Violence Act dated 20.08.2018 and second one for maintenance on 26.08.2015, are silent about any such occurrence having taken place. Even the statement recorded by the SHO on 27.08.2015 which is available on the record as Annexure P-8, (which statement was recorded pertaining to a complaint filed by the petitioner), only mentions that a dispute arose between her and the petitioner on 06.08.2015, again without any mention of unnatural sexual intercourse. It is worth mentioning that the

respondent-complainant on three occasions in the different petitions filed made no mention about the unnatural sexual intercourse.”

22. Learned counsel for the respondents are unable to dispute the above said factual and legal position.
23. Accordingly, in view of the above discussion, the present petition is **allowed**. The FIR No. 43 dated 10.11.2021 registered under Sections 498-A and 34 IPC at Police Station Women Cell, Bathinda, and all consequential proceedings arising therefrom, stand quashed qua the petitioner.
24. Pending application(s) if any also stand(s) disposed of.

15.03.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No