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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-55351-2024 (O&M)
Date of decision: 08.11.2024

Danish Kumar @ Danish Mahajan

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vivek Salathia, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of FIR No.112 dated 22.07.2022 under Sections 406, 498-A, 509 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Hoshiarpur, District Hoshiarpur and all the consequential proceedings arising therefrom.
2. Briefly, the facts, as alleged by the prosecution, are that the marriage between the petitioner and respondent No.2 was solemnized on

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30.04.2021 according to Hindu rites and rituals. On demand of her in-laws, the family of respondent No.2 gave gold ornaments as well as Rs.2,00,000/- in cash to the petitioner and his family. The couple moved to Pune, after the marriage, where the petitioner started physically assaulting her. He slapped her and pushed her head into the wall, as he was unsatisfied by the dowry articles as well as the lack of pompousness in the wedding festivities. He continued assaulting her and forced her to get an SUV and Rs.15,00,000/- in cash from her parents. On 27.05.2021, the petitioner asked her to leave the matrimonial home. When respondent No.2 informed her family about behaviour of the petitioner, her brother and sister met with him on 10.06.2021 and were forced to bring her back to her paternal home. She went back to her matrimonial home in Pune a month later, but was threatened by her in-laws, who were adamant on their demand for cash. The petitioner continued to beat her, leaving the right side of her face swollen and nose bleeding. Respondent No.2 informed him that her parents are coming to get her that caused him to slap her. He also pressurized her to divorce him and refused to return the dowry articles or her *istridhan*.

3. Learned counsel for the petitioner, *inter alia*, contends that respondent No.2 registered a non-cognizable report dated 10.09.2021 (Annexure P-2) under Section 155 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') (*now Section 174 of BNSS*) at Police Station Chikhli, Pune



on the same set of allegations. However, she left Pune during pendency of the same and registered a second complaint in Hoshiarpur, on the basis of which FIR (*supra*) was registered. Article 20(2) of the Constitution of India forbids registration of multiple complaints on the same set of allegations, as that would amount to double jeopardy. Reliance in this regard can be placed on the judgments rendered by the Hon'ble Supreme Court in ***Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation and another, (2013) 6 SCC 348*** and ***Krishna Lal Chawla and others Vs. State of U.P., AIR 2021 SC 1381***. Moreover, no cause of action arises in Hoshiarpur, as all the allegations pertain to the stay of the couple in Pune. The Investigating Officer has failed to investigate the allegations qua the stay in Pune and has not examined any witness from there. Reliance in this regard is placed on the judgments rendered by the Hon'ble Supreme Court in ***Sujata Mukherjee Vs. Prashant Kumar Mukerjee, (1997) 5 SCC 30, Sunita Kumari Kashyap Vs. State of Bihar, (2011) 11 SCC 301, Upkar Singh Vs. Ved Prakash, (2004) 13 SCC 292, T.T. Anthony Vs. State of Kerala, (2001) 6 SCC 181, Rajesh Sharma and others Vs. State of U.P. and another, (2018) 10 SCC 472, Arnesh Kumar Vs. State of Bihar and another, (2014) 8 SCC 273 and Rupali Devi Vs. State of U.P. and others, (2019) 5 SCC 384***.

4. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, it is evident that respondent



No.2 belongs to Hoshiarpur, her marriage was solemnized in Amritsar and after that, she had been staying in Pune with her husband. The question of jurisdiction with respect to the adjudication of matrimonial disputes stands well settled by the Hon'ble Supreme Court in ***Preeti Kumari Vs. State of Bihar and others, 2019(4) RCR (Criminal) 521*** and ***Rupali Devi's*** case (*supra*).

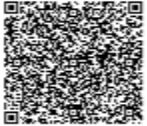
5. Pertinently, the Hon'ble Apex Court in ***Rupali Devi's*** case (*supra*) has held that it is not necessary that the complaint should be filed only at the location of the matrimonial home; even the Court, in whose jurisdiction the wife resides, after leaving the matrimonial home, will be competent to entertain a complaint under Section 498-A of IPC. Further, in ***Ruhi Vs. Anees Ahmed and others, 2020 (1) RCR (Criminal) 644***, it was reiterated that the Court, in whose jurisdiction the wife takes shelter, after leaving or being driven out from her matrimonial home on account of cruel treatment, would have the authority to entertain complaints alleging commission of offence punishable under Section 498-A of IPC. As such, the argument advanced by learned counsel for the petitioner qua the issue of jurisdiction is liable to be rejected.

6. Furthermore, a perusal of the report dated 10.09.2021 (Annexure P-2) only indicates the instance of respondent No.2 being turned out of her matrimonial home in Pune. Even in the FIR (*supra*), respondent No.2 has mentioned that the police officials took her husband and his parents to the police station, where a DDR was registered. Clearly, the report lodged in Pune



was to address the immediate issue of respondent No.2 being shunned out of the house in a city, where she did not know anyone. However, FIR (*supra*) details the incidents of harassment from the inception of the marriage. Moreover, FIR is not an encyclopedia to carry every detail of the case of the prosecution, as held by the Hon'ble Supreme Court in ***Rotash Vs. State of Rajasthan, 2006 (12) SCC 64***. At the same time, it has its own probative value for the purpose of recording a finding of a relevant fact on the basis of corroboration. Thus, it is an important piece of evidence for the corroboration of the oral evidence adduced during the trial and it would be unreasonable and premature to conclude that the filing of FIR (*supra*) amounts to double jeopardy in terms of ***T.T. Anthony's*** case (*supra*). As far as the veracity of the allegations levelled by respondent No.2 is concerned, the same is a matter of trial and would be ascertained by learned trial Court on the basis of evidence adduced by the parties, as such interference by this Court is not warranted. The petitioner has also attempted to set up a probable defence that the issue at hand merely arose out of temperamental differences, which cannot be appreciated at this stage. Reliance in this regard can be placed on ***HMT Watches Ltd. Vs. M.A. Abida, (2015) 11 SCC 776, Rathish Babu Unnikrishanan Vs. State (Govt. of NCT of Delhi) and another, 2022 SCC Online SC 513*** and ***Sampelly Satyanarayana Rao Vs. Indian Renewable Energy Dev. Agency Ltd., (2014) 12 SCC 539***.

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7. In view of the discussion above, present petition is dismissed being bereft of any merit. However, the petitioner would be at liberty to raise all the pleas taken by him herein at the appropriate stage during course of the trial.

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

9. Needless to say, nothing observed herein shall be construed as expression of an opinion by this Court, lest it may prejudice the trial. Learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

08.11.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No