



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-55270-2019 (O&M)
Date of Decision: 19.09.2024

Raj Kumar and others Petitioner(s)

Versus

State of Haryana and another Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Tushar Gautam, Advocate for
petitioners No. 2, 3 and 5 and for
respondent No.4.

Mr. Aditya Pal Singla, A.A.G., Haryana.

Mr. Gaurav Sethi, Advocate for respondent No.2.

NIDHI GUPTA, J. (ORAL)

Prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.84 dated 09.10.2019 under Sections 323, 406, 498-A IPC registered at Police Station Women, Ambala District Ambala (Annexure P-1) and all subsequent proceedings arising there from, **on merits.**

Separate vakalatnamas filed on behalf of the petitioners No. 2, 3 and 5, and respondent No.4 with 'No Objection' from earlier counsel in Court today, are taken on record.



Learned counsel for the petitioners *inter alia* submits that the petitioners No. 1 and 2 are the parents-in-law, petitioner No. 3 is a married brother-in-law; petitioner No. 4 is the married sister-in-law and petitioner No. 5 is the husband of petitioner No.4 of the complainant/respondent No.2 herein. Learned counsel submits that the son of petitioners No. 1 and 2 was married to the complainant on 11.03.2016 and two children were born out of their wedlock on 09.11.2018 and 21.11.2019, who admittedly are in the care and custody of the complainant. Due to matrimonial discord between the couple, the complainant left the matrimonial home in the year 2019. The present FIR has been registered thereafter, on 09.10.2019. Learned counsel for the petitioner submits that the allegations made in the FIR qua all the petitioners are false and fabricated. It is borne out from the fact that petitioners No. 4 and 5 are residing separately from the complainant and had no interference or connection with the matrimonial home of the complainant. It is submitted that the complainant had filed a petition under Section 125 Cr.P.C., wherein in her evidence she has made a statement as PW1 and has categorically admitted that “*it is correct that my father-in-law treated me as his daughter and kept me nicely. Volunteered I have also treated him as my father.*”

Learned counsel contends that in view of the above said admission on the part of the complainant, the allegations in the FIR are borne out to be false and fabricated. It is stated that the husband of the complainant works in CISF.



As regards petitioner No.1, it is admitted that the petitioner No.1 is retired from BSF and the petitioner No.2, who is aged lady, and suffering from diabetes, is living alongwith petitioner No.1. It is pointed out that petitioners No.1 and 2 have nothing to do with the matrimonial life of the complainant.

Learned counsel for the complainant vehemently opposes the prayer made on behalf of the petitioners and submits that all the petitioners were residing in the joint house. It is further submitted that there are clear allegations made in the FIR against each of the petitioners. Furthermore, the petitioners are not appearing before the learned trial Court and warrants have been issued against them to put in appearance. Even the application filed by the petitioners for recalling the order whereby the warrants have been issued against them, has been dismissed by the learned trial Court.

Learned counsel for the State, on instructions from ASI Santosh, informs that challan has been presented on 11.06.2021; charges have not yet been framed; out of 9 prosecution witnesses, none has been examined so far, and the next date of hearing before the learned trial Court is 01.10.2024.

I have heard learned counsel for the parties as also perused the case file in great detail.

Perusal of the record of the case shows that there were 6 accused in the present FIR, being the family members of the husband and the husband of the complainant. However, only the family members of



the husband are before this Court as petitioners herein. The allegations made in the FIR is for commission of offence under Sections 406 and 498-A IPC. It is the contention of the learned counsel for the complainant that the petitioners were residing with the complainant in a joint house with a separate mess/accommodation. A perusal of the present petition shows that it has been categorically stated in para 2 thereafter that the petitioner No.3 who was brother-in-law/jeth has solemnized marriage on 28.10.2014 and a son was born to him on 23.05.2015; and that the petitioner No.3 alongwith his wife and son was living in a separate accommodation with separate mess in a joint house. No reply has been filed by the complainant to controvert or contradict the above said assertion of the petitioners. Furthermore, it has been admitted by learned counsel for the complainant that petitioner Nos. 4 and 5, who are the married sister-in-law and her husband respectively were residing in a separate accommodation and as such, they have nothing to do with the matrimonial life of the complainant.

Learned counsel for the complainant is unable to deny the statement made by the complainant in a proceeding under Section 125 Cr.P.C. wherein she has admitted that *“it is correct that my father-in-law treated me as his daughter and kept me nicely. Volunteered I have also treated him as my father.”*

Furthermore, perusal of the FIR shows that vague, unsubstantiated, general and omnibus allegations have been made therein regarding demand of dowry. It has been alleged in para 10 of the FIR that



the petitioner No.2 became angry upon which the husband of the complainant Rohit Kumar had given her slap blows. It has further been alleged in para 12 of the FIR (at page 17 of the paper-book) that the petitioner No.3 repeatedly used to taunt the complainant that car should be given in marriage. Similar such allegations are found in abundance in the FIR. However, there are no specific date, time and place mentioned. It has also been alleged in para 17 of the FIR, which reads as under:-

“17. That on 28-04-2019, the infant child was weeping due to with the complainant came late for 15 minutes in kitchen, then Luxmi Devi and Raj Kumar Singh had not allowed the complainant to kitchen and they gave abuses to the complainant in filthy language and this fact was told to Rohit Kumar by the complainant upon which he left the house. The above said persons has taken their meal. but they had not allowed the complainant to take food for herself kitchen. After noon, Rohit kumar came back to the house and he demanded food form the complainant upon which the complainant told that his parents are not allowed her to enter in the kitchen. Then his parents gave abuses to the complainant and then Rohit Kumar and his family members had beaten the complainant mercilessly and have list blows and kick blows and then with great efforts, the complainant called to her brother- Vijay Pal, but Vijay Pal could not reach Rajpura as he was in Kurukshetra, then in the night again the complainant \vas beaten mercilessly by all the above said persons and then the complainant called her brother in the night at about 11PM, then Vijay Pal and his relatives went to the matrimonial home of the complainant, then Rohit Kumar beaten the complainant in their presence also and lateron they all begged pardon from the brother of the complainant



and they all promised that it will not happen again and then Vijay Pal etc. returned back to Ambala City.”

However, admittedly there is no MLR on record to substantiate that any beatings or injuries were inflicted upon the complainant by the petitioners. It is therefore, clear that allegations made under Section 406 and 498-A remain unsubstantiated.

Reliance may also be placed upon a three-Judge Bench judgment of the Hon’ble Supreme Court in **“Abhishek Vs. State of Madhya Pradesh” 2023 SCC OnLine SC 1083, Law Finder Doc ID # 2302074** has observed that:

“15. Earlier, in Neelu Chopra 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.”

In the facts and circumstances of the present case, it would be opposite to refer to a three-Judge Bench judgment of the Hon’ble Supreme Court in **“Abhishek Vs. State of Madhya Pradesh” 2023 SCC OnLine SC 1083, Law Finder Doc ID # 2302074** relevant part of which is reproduced hereinbelow:-

“13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against



*them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in **Kahkashan Kausar alias Sonam & Others v. State of Bihar & Others [(2022) 6 SCC 599]**, this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.*

*14. In **Preeti Gupta & Another v. State of Jharkhand & Another [(2010) 7 SCC 667]**, this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to*



be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

*15. Earlier, in **Neelu Chopra & 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 & Others v. State of U.P. & Others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023)** on the legal principles applicable apropos Section 482 Cr. P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr. P.C. 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.”

In view of what has been discussed here-in-above, this petition is **allowed**; and FIR No.84 dated 09.10.2019 under Sections 323, 406, 498-A IPC registered at Police Station Women, Ambala District Ambala (Annexure P-1) and all subsequent proceedings arising there from, are ordered to be **quashed** qua the petitioners.

Pending application, if any, stands disposed of.

19.09.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No