

(2012) 10 P&H CK 0116

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-13189 of 2012 (O and M)

Suman and Another

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision: Oct. 1, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 161, 173, 208, 482
- Penal Code, 1860 (IPC) - Section 406, 498A

Hon'ble Judges: Naresh Kumar Sanghi, J

Bench: Single Bench

Advocate: J.S. Bedi, for the Appellant; Shekhar Mudgal, Assistant Advocate General, Haryana for Respondent No. 1 and Mr. Surinder Gandhi, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Naresh Kumar Sanghi, J.

The present petition has been filed by petitioner No. 1 Suman, sister-in-law (Nanad), and petitioner No. 2 Sandeep, brother in law (Dewar), of Sharda, for quashing of FIR No. 269, dated 02.11.2007, under Sections 406 and 498-A of the Indian Penal Code, Police Station, Sadar, Rohtak. Brief facts of the case are that the FIR was registered against the petitioners and their co-accused on the basis of written complaint lodged by Harkishan son of Ram Gobind, Village and Post Office Khadwali, Tehsil and District Rohtak (father of Sharda). Marriage of Sharda was solemnized with Bhupinder son of Thambu Ram on 22.06.2003. A lot of dowry articles were handed over to the petitioners and their co-accused. When Sharda went to her matrimonial home, her husband, Bhupinder, and mother-in-law, Rajwanti, taunted Sharda on account of bringing less dowry. When Sharda went to her parental house after a week of her marriage, then she told everything to her father (complainant). On 12.07.2003, Sharda was again sent to her matrimonial home and at that time also a huge amount was given by the complainant. However, the petitioners and their co-accused were not satisfied with the dowry articles given by the complainant and

hence they started harassing Sharda. Mother-in-law, Rajwanti, demanded necklace while the petitioners demanded gold chain. The father-in-law and the husband also demanded different articles. Sharda told everything to her father. On 20.07.2003, brother of Sharda went to the house of his sister on the occasion of Teej festival then mother-in-law, Rajwanti, sister-in-law, Suman, and brother-in-law, Sandeep, asked him as to whether he had brought the money etc., to fulfil their demand. After getting the reply in negative, mother-in-law threw the sweets and clothes on the brother of Sharda and also used filthy language. When Sharda tried to stop her mother-in-law and the petitioners then Suman petitioner made Sharda to fall on the ground by catching her from hair. Shri Mohan, brother of Sharda, tried to save his sister then the remaining accused scuffled with him and pushed him out from the house. They even threatened him that if their demands were not acceded to, his sister would be deserted. On 27.07.2003, the complainant went to meet his daughter and handed over Rs. 1,00,000/- to the father-in-law of Sharda in the presence of the petitioners and his co-accused but still they were not satisfied. On 03.08.2003, Sharda was beaten up and threw her out of matrimonial home. In September, 2003, the accused persons got Sharda aborted against her wishes. The accused continued to harass Sharda and ultimately turned her out of the matrimonial home to bring a sum of Rs. 3,00,000/- from her parents. On assurance of the father of Sharda to arrange the sum of Rs. 3,00,000/- shortly, she was taken to her matrimonial home by her husband on 25.08.2004. In the meantime, Sharda gave birth to a female child at the house of her father but still the petitioners and their co-accused continued to harass and beat Sharda, and raise their demands of dowry.

2. Learned Counsel for the petitioners submitted that petitioner No. 1 is the sister-in-law while petitioner No. 2 Sandeep is the brother-in-law of Sharda. Both of them were residing in a separate accommodation with their parents. He further submitted that vide order dated 21.07.2008 (Annexure P-8), a divorce petition filed by Bhupinder, husband of Sharda, was allowed and a decree of divorce was passed in favour of Bhupinder. The said divorce petition was filed on the ground that Sharda was treating Bhupinder and his family members with cruelty. The findings recorded by the civil court were binding on the criminal court in a matrimonial case. He further submitted that the petitioners were arrayed as accused just to widen the array of the accused, therefore, he prayed for quashing of the FIR and consequential proceedings arising therefrom qua the petitioners.

3. To buttress his arguments, he has placed reliance on Krishan Jeet Singh Versus State of Haryana, 2003(1) RCR (Cri) 183; M/S. Randeep Paper Board Mills Versus The State of Haryana, 2003(1) RCR (Cri) 187; Mrs. Sudesh Kumari and anr Versus Som Nath, 1991(3) RCR 627; Gurmukg Singh @ Oardgab Versus State of Punjab and another, 1991(3) RCR 630; Leela Devi Versus Pooran, 1985 (1) R.C.R. (Cri) 259; Kundan Lal and others Versus State of Haryana and another, 2002(2) Cur I J 63; Som Mittal Versus Govt. of Karnataka 2008 (1) R.C.R. (Cri) 880; Hardev Singh and another

Versus Satnam Kaur, 2007 (2) R.C.R. (Cri) 692; Smt. Preeti Bulagan and another Versus State of Haryana and another, 2010 (4) R.C.R. (Cri) 775; Ramandeep Kaur Versus State of Punjab, 2001(4) R.C.R. (Cri) 394; Kamaljit Singh Versus State of Punjab, 2004 (1) R.C.R. (Cri) 321; Rakesh Kumar and others Versus State of Punjab and others, 2009 (2) R.C.R. (Cri) 565; Divya alias Babli and others Versus State of Haryana and another, 2006 (4) R.C.R. (Cri) 322; Anita and others Versus State of Punjab, 2003 (4) R.C.R. (Cri) 313; and Anisha Bhandari Versus State of Haryana, 2005 (2) R.C.R. (Cri) 429.

4. On the other hand, Learned Counsel for the respondents submitted that there were specific allegations against the petitioners. They further submitted that after thorough investigation, the charge sheet (report u/s 173 of the Code of Criminal Procedure) was presented before the learned Area Judicial Magistrate and after complying with the provisions contained in Section 208 of the Code of Criminal Procedure, charges for the offences punishable under Sections 406 and 498-A of the Indian Penal Code have already been framed against the petitioners and their co-accused. Even some of the prosecution witnesses have also been examined, therefore, no ground for quashing of the FIR and the consequential proceedings arising therefrom was made out.

5. I have heard Learned Counsel for the parties and gone through the material available on record.

6. There is no second view with regard to the decisions cited by the counsel for the petitioners but the ratio of the said judgments are not applicable to the facts and circumstances of the case in hand. Every criminal case has to be decided on its own facts and circumstances. It goes without saying that tendency has increased to falsely implicate the innocent persons in dowry related matters.

7. While dealing with a petition presented u/s 482 of the Code of Criminal Code for quashing of the FIR and the consequential proceedings arising therefrom, the court has to keep in mind various factors. The paramount would be the allegation levelled by the complainant in the First Information Report/complainant and the supportive material collected during investigation or inquiry. If the material so collected, *prima facie*, discloses the involvement of the person in the alleged offence, seeking quashing of the FIR, then his prayer has to be rejected. In the case in hand, specific role has been assigned to both the petitioners. During the course of investigation, statement of Sharda was recorded in terms of Section 161 of the Code of Criminal Procedure in which she had specifically named the petitioners who treated her with cruelty. Shri Mohan, brother of Sharda, also disclosed to the police with regard to the cruelty meted out to Sharda at the hands of the petitioners.

8. The investigating agency after thorough investigation filed the charge sheet for prosecution of the petitioners and their co-accused. Finding a *prima facie* case, the learned trial court framed the charges and fixed the case for recording of the

prosecution evidence. As per the reply filed by the State, a few witnesses have already been examined. Keeping in view of the totality of the circumstance of the case, it is not a fit case where this Court should exercise its inherent powers enshrined u/s 482 of the Code of Criminal Procedure for quashing the FIR and the consequential proceedings arising therefrom. Resultantly, the present petition is hereby dismissed.