

(2013) 05 P&H CK 0206

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. M-27254 of 2012 (O and M)

Paramjit Kaur

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision: May 24, 2013**Citation:** (2014) 1 Crimes 57 : (2013) 4 RCR(Criminal) 387**Hon'ble Judges:** Sabina, J**Bench:** Single Bench**Advocate:** S.S. Ranghi, for the Appellant; Deep Singh, AAG, Punjab and None, for the Respondent

Judgement

Sabina, J.

Petitioner has preferred this petition u/s 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 95 dated 28.6.2012 (Annexure P-1) u/s 498A of the Indian Penal Code, 1860 (IPC for short) registered at Police Station Fatehgarh Sahib and all the subsequent proceedings arising therefrom. Learned counsel for the petitioner has submitted that Sarabjit Kaur, daughter of respondent No. 2, got married to Iqbal Singh on 25.11.2009. Thereafter, Iqbal Singh left for New Zealand. Iqbal Singh again visited India and moved requisite papers for grant of Visa to his wife on 14.3.2010. Sarabjit Kaur reached New Zealand on 8.8.2010. Within one week, an application for her Permanent Resident Card was made. Sarabjit Kaur was confirmed as permanent resident of New Zealand on 14.10.2011. Mother of the petitioner reached New Zealand on 20.7.2010. A dispute arose between Sarabjit Kaur and her husband as she (Sarabjit Kaur) wanted that mother of her husband should not live in the same house. So far as petitioner is concerned, she got married on 20.2.2011 and is residing in her matrimonial home. Petitioner did not and could not interfere in the matrimonial life of her brother and his wife as they were residing in New Zealand, whereas, petitioner was residing in India.

2. Learned State counsel, on the other hand, has opposed the petition.

None has appeared for respondent No. 2 despite service.

3. After hearing learned counsel for the parties, I am of the opinion that the present petition deserves to be allowed.

4. In the case of [State of Haryana and others Vs. Ch. Bhajan Lal and others](#), the Apex Court has held as under:-

The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers u/s 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

(1) Where the allegations made in the first information report or the complainant/respondent No. 2, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of Magistrate as contemplated u/s 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings 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.

We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

5. In [Kans Raj Vs. State of Punjab and Others](#), their Lordships of the Apex Court have observed that a tendency has developed for roping in all the relations in dowry cases and if it is not discouraged, it is likely to affect case of the prosecution even against the real culprits. The efforts for involving the other relations ultimately weaken the case of the prosecution even against the real accused.

6. In the present case, a perusal of the FIR reveals that Sarabjit Kaur, daughter of respondent No. 2, had got married to Iqbal Singh on 25.11.2009. The case of the complainant is that his daughter was harassed by her husband and his family members on account of dowry demand. The husband and his family members raised a demand of Rs. 15,00,000/- from the complainant to rehabilitate his daughter in New Zealand. However, the matter was duly compromised and Sarabjit Kaur reached New Zealand. A complaint had been lodged by Sarabjit Kaur with the New Zealand police on 14.10.2011 that the petitioner, her mother, her brother and other family members had been harassing her and were raising a demand of Rs. 15,00,000/-.

7. Thus, in the present case, marriage of Sarabjit Kaur with Iqbal Singh was performed on 25.11.2009. Sarabjit Kaur reached New Zealand on 8.8.2010. Thus, any differences, which were there between the parties, had been amicably settled and consequently, Sarabjit Kaur reached New Zealand. Daughter of the complainant is residing in New Zealand. As per learned counsel for the petitioner Permanent Resident Card has also been granted to Sarabjit Kaur. Visa formalities were completed by Iqbal Singh which enabled Sarabjit Kaur to reach New Zealand. Petitioner is however, residing in India and after her marriage on 20.2.2011, she is residing in her matrimonial home. FIR in question was registered on 28.6.2012. At that time, petitioner had already got married and started residing in her matrimonial home. It appears that some difference have arisen between Iqbal Singh and Sarabjit Kaur in New Zealand. The differences, which had arisen between the parties in India, were amicably sorted out. The said fact is evident from Annexure P-2, copy of the compromise deed. Execution of compromise deed has also been duly mentioned in the FIR. It appears that petitioner has been involved in this case at the instance of the father of Sarabjit Kaur (who is residing in New Zealand), because of her relationship with the husband of Sarabjit Kaur.

8. There is a general tendency that as and when a matrimonial dispute arises, the family members of the girl/bride tend to involve all the family members of the husband. Hence, continuation of criminal proceedings, in the facts and

circumstances of the present case, against the petitioner, would be nothing but an abuse of process of law. Accordingly, this petition is allowed. FIR No. 95 dated 28.6.2012 (Annexure P-1) u/s 498A IPC registered at Police Station Fatehgarh Sahib and all the subsequent proceedings arising therefrom, qua the petitioner, are quashed.