

(2012) 03 P&amp;H CK 0519

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R.M. No. M-24330 of 2010

Anoop Kumar

APPELLANT

Vs

State of Haryana and  
AnotherRESPONDENT

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**Date of Decision:** March 20, 2012**Acts Referred:**

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

**Citation:** (2013) 2 RCR(Criminal) 242**Hon'ble Judges:** Mehinder Singh Sullar, J**Bench:** Single Bench

**Advocate:** Divjyot Singh Sandhu, for the Appellant; Manish Deswal, DAG Haryana for the Respondent No. 1 and Mr. Sandeep Lathar, Advocate for Mr. Ravinder Malik, Advocate for the Respondent No. 2, for the Respondent

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**Judgement**

Mehinder Singh Sullar, J.

Tersenessly, the facts, which require to be noticed, relevant for the limited purpose of deciding the core controversy, involved in the instant petition and oozing out, from the record, are that, the marriage of complainant Smt. Mukesh respondent No. 2 (for brevity "the complainant") was solemnized with main accused Ashok Sangwan, on 17.6.2003, according to Hindu rites and ceremonies. Her parents were stated to have spent about Rs. 12 lacs on the marriage beyond their capacity and gave one Santro car, fridge, TV, washing machine and gold ornaments, but the accused were not satisfied with the dowry articles. Her sister-in-law Smt. Suresh Suhag and mother-in-law Sehaj Kaur started proclaiming that neither she (complainant) is well educated according to their status nor her parents have given dowry articles as per their standard. They should have given Honda City Car, cash of Rs. 5 lacs and Bracelet. The other accused were also siding with them. They demanded a Bracelet and her parents gave Rs. 20,000/- in cash to her husband in lieu of Bracelet. Levelling a variety of allegations and narrating the sequence

of events, in all, according to the complainant that her husband, sister-in-law and mother-in-law misappropriated her dowry articles and treated her with cruelty in connection with and on account of demand of dowry, whereas the remaining accused sided with them. In the background of these allegations and on the basis of the complaint of the complainant, the present case was registered against accused Ashok Sangwan (husband) and others, by virtue of FIR No. 78 dated 18.3.2009 (Annexure P3), on accusation of having committed the offences punishable under Sections 498-A and 406 IPC by the police of Police Station Tosham, District Bhiwani.

2. The petitioner did not feel satisfied with the initiation of criminal prosecution against him and preferred the instant petition, to quash the impugned FIR (Annexure P3) and all other consequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.PC, inter-alia pleading that he never maltreated or harassed the complainant. The petitioner claimed that he is working and is living at village Khetri, District Jhunjhunu (Rajasthan), which is more than 350 kilometers away from the matrimonial home of the complainant. He is not, in any manner, connected with the cruelty as alleged by her. He has been falsely implicated in order to spit venom and to pressurize her husband to concede her illegal demands. No specific allegations have been made by the complainant against the petitioner in the FIR and no offence whatsoever is made out. On the strength of aforesaid grounds, he sought to quash the impugned FIR (Annexure P3) and all other subsequent proceedings arising thereto in the manner described hereinbefore.

3. Although the complainant-respondent No. 2 did not file any reply to controvert the specific allegations contained in the petition, however, the State of Haryana has refuted the prayer of petitioner and filed the reply, inter-alia taking certain preliminary objections of, maintainability of the petition, cause of action and locus standi of the petitioner. The prosecution alleged that since there are allegations that the petitioner alongwith his other co-accused harassed the complainant, so, no ground for quashing the impugned FIR, qua him, is made out. Instead of reproducing the entire contents of the reply and in order to avoid the repetition, suffice it to say that respondent No. 1 has reiterated the allegations contained in the impugned FIR (Annexure P3). However, it will not be out of place to mention here that State of Haryana has stoutly denied all other allegations contained in the main petition and prayed for its dismissal.

4. Having heard the learned counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the entire matter, to my mind, the present petition deserves to be accepted in this context.

5. Ex facie, the argument of learned counsel for complainant and State that no ground for quashing the impugned FIR (Annexure P3) is made out at this stage, is not only devoid of merit but misplaced as well.

6. As is evident from the record that in the wake of complaint of the complainant, a criminal case was registered against main accused Ashok Sangwan (husband), Ram

Mehar and Sehaj Kaur (parents-in-law), Smt. Suresh Suhag (sister-in-law), her husband Ram Kishan Suhag and petitioner Anoop Kumar (brother-in-law) (Jeth). Even as per the FIR, the petitioner is working as Lecturer in Palab Kalan Kendriya Mahavidyalaya, Khetri. He is residing there with his family members, holds a ration card (Annexure P1) and gas connection (Annexure P2) at Khetri, District Jhunjhunu (Rajasthan). The complainant did not file any reply to controvert all the specific vital aspects of the matter pleaded in the petition relatable to her, for the reasons best known to her. In this manner, it stands proved on record that the petitioner is working and is separately residing at Khetri (Rajasthan) alongwith his family members, whereas the complainant was residing with her husband at village Bhojpur (Delhi). In that eventuality, how, when, in what manner and in whose presence, the petitioner has treated the complainant with cruelty or in any way, remotely connected with the commission of indicated offences, remains an unfolded mystery. The complainant appears to have maliciously and vexatiously involved the petitioner in this case in order to wreak vengeance and to take revenge.

7. Moreover, very vague allegations are assigned to the petitioner in the FIR. The only allegation alleged against him by the complainant is that he is her brother-in-law (Jeth). There is neither single cogent allegation in the FIR nor any specific role is attributed to him by the complainant. Above-all, it is very highly impossible to believe that the petitioner, who is working and residing in Rajasthan, would come to treat her with cruelty or demand the dowry articles from the complainant. All the main allegations, in regard to cruelty in connection with and on account of demand of dowry articles, are assigned to main accused Ashok Sangwan (husband) and other co-accused.

8. It is now well settled proposition of law that, in order to attract the penal provisions of the offences punishable under Sections 406 and 498-A IPC, there must be specific allegations/overt acts and prima facie material against the petitioner to indicate that the dowry articles were actually entrusted to him and he misappropriated the same. For the fault of the husband, the in-laws and other relations cannot, in all cases, be held to be involved in the demand of dowry. In cases, where such accusation is made, the overt acts attributed to such persons, other than husband, are required to be prima facie established. By mere conjectures and implications, such relations cannot be held to be involved for the offences relating to the demand of dowry, which are totally lacking in the present case. As the Bench mark, all the essential ingredients to constitute the offences and element of the complicity of petitioner, are totally missing, therefore, to me, no criminal prosecution can legally be permitted to continue against him.

9. As strange as it may appear, but strictly speaking, the tendency and frequency of the wives of involving and roping in all the relations of her in-laws in the matter of demand of dowry have been tremendously increasing day by day, which is adversely affecting social fabric of the society and leaving the Courts in lurch to decide such criminal prosecution. This tendency needs to be curbed and if not discouraged, it is likely to affect and weaken the case of the prosecution even against the real culprits in future. In this manner, the very purpose of introducing Section 498-A IPC would pale into insignificance in this

relevant connection. This matter is no more res integra and now well settled.

10. An identical question recently came to be decided by the Hon"ble Apex Court in case [Preeti Gupta and Another Vs. State of Jharkhand and Another](#), Recent Apex Judgments (R.A.J.) 612 : 2010 (7) SCC 667. After interpreting the provisions of Section 498-A IPC, it was ruled as under (paras 30 to 36):-

30. It is a matter of common experience that most of these complaints u/s 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint u/s 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband"s close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband"s relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of

suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon"ble Minister for. Law & Justice to take appropriate steps in the larger interest of the society.

36. When the facts and circumstances of the case are considered in the background of legal principles set out in preceding paragraphs, then it would be unfair to compel the appellants to undergo the rigmarole of a criminal trial. In the interest of justice, we deem it appropriate to quash the complaint against the appellants. As a result, the impugned judgment of the High Court is set aside. Consequently, this appeal is allowed.

11. Not only that, this Court has also considered this aspect of the matter in cases [Harjinder Kaur and Others Vs. State of Punjab](#), [Labh Singh and Others Vs. State of Haryana](#) [Rakesh Kumar and others Vs. State of Punjab and others](#) ; [Mohinder Kaur and Others Vs. State of Punjab and Another](#), [Paramjit Kaur v. State of Punjab](#) 2011 (5) RCR (Criminal) 686 and the judgment dated 17.1.2012 rendered in case [Ritu Khurana And Another Vs. Brij Lal Chopra](#), wherein it was held that "the allegations against the relatives of the husband were vague and there is growing tendency to come out with inflated and exaggerated allegations roping in each and every relation of the husband, things have now taken a reverse trend and the women are abusing beneficial provisions of section 498-A IPC." Therefore, the contrary submissions of learned counsel for complainant "stricto sensu" deserve to be and are hereby repelled under the present set of circumstances, as the ratio of law laid down in the aforesaid judgments "mutatis mutandis" is applicable to the facts of this case and is the complete answer to the problem in hand.

12. Sequelly, if the crux of the allegations levelled against the petitioner as discussed hereinabove, is clubbed together and is perused, then, to my mind, no indicated offences are made out and the complainant has vexatiously and maliciously filed the complaint, on the basis of which, the impugned FIR (Annexure P3) has been registered against him, in

order to wreak vengeance. In case complainant is permitted to prosecute his brother-in-law (Jeth), who is working and residing separately alongwith his family members in Rajasthan, then, it will inculcate and perpetuate great injustice to him. In this manner, the complainant appears to have falsely involved the petitioner in the present case. Counsel for complainant did not point out any allegation/material, much less cogent, involving the petitioner in the alleged crime. Therefore, the impugned FIR (Annexure P3) and all other consequent proceedings arising thereto, qua petitioner only, deserve to be quashed in the obtaining circumstances of the case.

13. No other legal point, worth consideration, has either been urged or pressed by the counsel for the parties. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial against the remaining main accused, the instant petition is accepted. Consequently, the impugned FIR (Annexure P3) and all other subsequent proceedings arising therefrom, with regard and relatable to the petitioner only, are hereby quashed. He is accordingly, discharged from the indicated criminal case registered against him.