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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-40954-2023 (O&M)

Reserved on :18.01.2025

Pronounced on: 27.01.2025

Parveen Kumar and others

..... Petitioners

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Vivek Aggarwal, Advocate, for the petitioners.

Mr. Brijesh Sharma, AAG, Haryana.

Ms. Nanvi Gupta, Advocate, for respondent No.2.

KIRTI SINGH, J.

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for quashing the FIR No.181 dated 17.06.2023, under Sections 323 & 498-A IPC, registered at Police Station Sector 17, HUDA, Jagadhri, Yamunanagar.

Factual matrix

2. The facts in brief are that the marriage of petitioner No.1-Parveen Kumar with respondent No.2-Swati was solemnized on 02.07.2018 as per the Hindu rites at Kurukshetra and the couple was blessed with a male child namely, Shivansh on 09.07.2020. However in 2023, an FIR was got registered against petitioner No.1 and also against petitioner No.2-Kamlesh who is the mother-in-law, petitioner No.3-Pawan Kumar, brother-in-law and petitioner No.4-Rampal, the father-in-law of the

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complainant-respondent No.2. The allegations leveled were that the petitioners tortured, humiliated and beat the complainant-respondent No.2 for dowry. It is also alleged that on 27.09.2022, the complainant-respondent No.2 was beaten by petitioner No.1-husband and her mother-in-law and thrown out from the matrimonial house with her son due to non-fulfillment of demand of dowry.

2.1 The translated version of the FIR is reproduced below:-

“An application No.1521 dated 25.02.2023 has been received by post in Cell, Yamunanagar, after investigation by Deputy Superintendent of Police Radaur and after getting legal opinion from District Attorney vide letter No.243 dated 16.5.2023, the contents of the application are as under:- To, SSP Office, Yamunanagar. Subject: Regarding dowry and beating. Sir it is submitted that I, Swati D/o Raj Kumar is the resident of 73, Sikandar Nagar, ESI Hospital Jagadhri Yamunanagar. My parents had got me married with Parveen Slo Rampal resident of Gugpur Jansa District Kurukshetra. After six months of marriage, my mother-in-law started torturing me for dowry and humiliating me. Every time tortured me and my husband Parveen helped her in this matter and beat me. When I raised my voice, all started to beat me. And many times, they beaten me and thrown me out of the house, when I come to my parent's house, my parents again sent me to my in-laws house. Once I had pregnancy of four months, they quarreled with me and Parveen and his brother Pawan Kumar kicked me at my abdomen and killed my child. Then my husband Parveen got aborted me. I was very upset from that house. Everyone used to beat me. Even Parveen's maternal uncle asked me for dowry that I did not bring anything in this house. Parveen used to abuse me about my mother and sister and his brother Parveen Kumar and my mother-in-law beat me. Once Kamlesh thrown me out of the house. Once I was pregnant and all these persons asked to do house hold works and did not allow me to rest. When I was about to deliver a child. On 28.7.2020 I had given birth to a child, who had given name Shivansh. At that time the Doctors of Kurukshetra Hospital are saying that the child was having normal delivery even then they got surgerian. They did not provide me and my child anything in the house. When I asked for something they used to beat me. Every time I was beaten by them. Every time they quarreled with me. On 27.9.2022 they beat me, Parveen

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and my mother-in-law beat me and myself and my son thrown out from the house and even my clothes were thrown out from the house and used to humiliating about dowry. 1. Parveen 9896365565 resident of Gugupur Jansa, Kuruskhetra 2. Parveen's mother Kamlesh resident of Gugupur Jansa, Kuruskhetra, 3. Pawant Kumar R/o Gugupur Jansa, Kuruskhetra. 4. Rampal resident of Gugupur Jansa, Kuruskhetra. I request to you all that justice may be done with me and they should be punished hardly. Section 498-A IPC should be registered against them. Sd/- Swati Mobile No.7404720545. Today on receipt of an application No.1521 dated 25.2.2023 by post in the office of Superintendent of Police after investigation by Women Cell, Yamunanagar, after investigation by Deputy Superintendent of Police Radaur and after getting legal opinion from District Attorney vide letter No.243 dated 16.5.2023, and after examination of the application offence under Section 323, 498-A IPC is found to be made out and Fir No.181 dated 17.6.2023 under Section 323, 498-A IPC Police Station Sector 1'7, HUDA Jagadhri has been registered.”

Submissions made by learned counsel for the petitioners

3. Learned counsel for the petitioners *inter alia* submits that the petitioners have been falsely implicated in this case. Since the beginning, the marriage was a troubled one as the complainant-respondent No.2 had unreasonable & extravagant demands

On 02.12.2022, respondent No.2-wife left her matrimonial house along with her son to visit her parental home. From there, on 11/12.02.2022 she eloped with a boy namely Sahil, with whom she was having an extra marital affair. Whereafter the parents of respondent No.2-wife got lodged an FIR No.1021 dated 12.12.2022 under Section 346 IPC at Police Station, Yamunanagar City, Yamunanagar (Annexure P-2).

However, on 14.12.2022, respondent No.2-wife appeared before the Chief Judicial Magistrate, Jagadhari and recorded her statement under Section 164 Cr.P.C (Annexure P3) and stated that she was in a

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relationship with Sahil and she had left her parental home on her own accord.

Subsequently, petitioner No.1-husband approached this Court by filing a Criminal Writ Petition No.312 of 2023 titled as 'Parveen Kumar Vs. State of Haryana and others' for the release of his son from the custody of respondent No.2-wife.

It has been argued that the present FIR was lodged as a counter-blast to the said writ petition. It has also been argued that no complaint was ever made against the petitioners prior to the lodging of the present FIR and there is no specific demand of any dowry articles ever made. It has further been argued that though in the present FIR, respondent No.2-wife had leveled allegations of beatings and abortion, however, neither a complaint was lodged at the time of alleged incident, nor any medical records or details of any Doctor have been given in the present FIR. Moreso, the allegations by respondent No.2-wife being thrown out from her matrimonial house on 27.09.2022 with her son, is mis-founded because she had left her matrimonial house on 02.12.2022 to visit her parental home at her own will.

Learned counsel for the petitioners further submits that the parents of respondent No.2 had disowned her through a publication dated 26.02.2023 in the newspaper Dainik Savera and also furnished an affidavit dated 10.03.2023 (Annexure P-8) in this regard.

It has been vehemently argued that a bare perusal of the challan would reveal that no recovery was effected on the part of the petitioners as also that no medical report has been submitted by the complainant-

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respondent No.2 in order to prove the addition of sections as mentioned in the present FIR as well as in the challan. Further, in the statement dated 28.06.2023 which was made with the challan, it was clearly stated that neither she was medically examined nor was there any medical procedure for abortion or treatment, proving that the allegations are totally false.

Submissions made by the learned counsel for respondent No.2

4. Learned counsel for respondent No.2 has chosen not to file a formal response and has made oral submissions. She has reiterated the allegations leveled in the present FIR and has opposed the present petition. It has been submitted that as per the cardinal principle of law, the Court is not required to conduct a 'mini trial' at the stage of quashing the criminal proceedings under Section 482 Cr.P.C.. The charges are to be proved during the trial on the basis of the evidence. At the time of exercising the powers under Section 482 Cr.P.C., the Court has very limited jurisdiction and is only required to consider 'whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not'. Reliance for this has been placed upon the judgment dated 10.04.2023 passed by the Hon'ble Supreme Court in **Central Bureau of Investigation Vs. Aryan Singh 2023 SCC Online SC 379.**

Submissions made the learned State counsel

5. Learned State counsel submits that investigation of the case has been completed and report under Section 173 Cr.P.C. has been submitted before the learned trial Court on 29.08.2023. There are specific allegations

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leveled against the petitioners and a *prima facie* case is made out against them.

Analysis & conclusion

6. Having heard learned counsel for the respective parties and having perused the material on record, the only question that arises for consideration of this Court is whether, the present FIR lodged against the petitioners herein should be quashed.

7. In the instant case, the allegations in the FIR are under Sections 498-A & 323 IPC. Section 498A of the IPC deals with offences committed by the husband or relatives of the husband subjecting cruelty towards the wife. The said provision reads as under:

"498A. Husband or relative of husband of a woman subjecting her to cruelty.- *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

Explanation.- For the purpose of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

8. Section 323 IPC deals with punishment for causing voluntarily hurt. The said provision reads as under:-

"323. Punishment for voluntarily causing hurt: *Whoever, except in the cause provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year or*

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with fine which may extend to one thousand rupees or with both.”

9. An offence is punishable under Section 498-A IPC when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The explanation under Section 498-A IPC defines ‘cruelty’ for the purpose of Section 498-A IPC to mean any of the acts mentioned in clause (a) or (b). The first limb of clause (a) of the explanation of Section 498-A IPC, states that ‘cruelty’ means any willful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the explanation of Section 498-A IPC states that cruelty means any willful conduct that is of such nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the explanation of Section 498-A IPC states that cruelty would also include harassment of the woman where such harassment is to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

10. Section 323 IPC deals with punishment causing voluntarily hurt which may extend to one year or with fine which may extend to one thousand rupees or with both.

11. A bare reading of present FIR would indicate that the allegations leveled are vague and omnibus. It has been alleged by the first informant that she was constantly harassed by her husband and in-laws for demand of dowry and it has also been stated that she was kicked during her

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fourth month of pregnancy by her husband and brother-in-law due to which she suffered an abortion.

12. However, a perusal of the judicial file indicates that there is nothing on record to substantiate her allegations leveled against the husband and in-laws in the form of an MLR or any medical/hospital prescription/bill. Even the learned counsel for respondent No.2 has not been able to put-forth any document to substantiate the said allegations. As a matter of fact, the parents of respondent No.2-wife had lodged FIR No.1021 dated 12.12.2022 at Police Station, Yamunanagar City, Yamunanagar regarding the missing report of their daughter. Thereafter, as per Annexure P3, i.e. the statement recorded under Section 164 Cr.P.C. before the Chief Judicial Magistrate, it has been stated that she was in a relationship with one Sahil and she had left her parents home on her own accord.

13. Recently, it has been held by the Hon'ble Supreme Court in **Dara Lakshmi Narayana and others Vs. State of Telangana and another** **2024 SCC Online SC 3682**, a mere reference to the names of the family members in a criminal case arising out of the matrimonial dispute without specific allegations indicating their active involvement should nipped in the bud. The relevant observations in this regard are extracted hereunder:-

“28. The inclusion of [Section 498A](#) of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like [Section 498A](#) of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and

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generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke [Section 498A](#) of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under [Section 498A](#) of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under [Section 498A](#) of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.

30. In the above context, this Court in [G.V. Rao vs. L.H.V. Prasad, \(2000\) 3 SCC 693](#) observed as follows:

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.”

31. Further, this Court in [Preeti Gupta vs. State of Jharkhand \(2010\) 7 SCC 667](#) held 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. The allegations of harassment by the husband’s close relatives who had been living in

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different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.”

14. In another recent judgment passed by the Hon'ble Supreme Court in **Achin Gupta Vs. State of Haryana and another 2024 SCC Online SC 759**, it has been held that the Court must read between the lines and must not shut its eyes and raise its hands in helplessness, saying that the FIR and chargesheet papers disclose the commission of a cognizance offence. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but an abuse of the process of the Court. The relevant observations in this regard are extracted hereunder:-

“25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

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

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the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

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 and Justice to take appropriate steps in the larger interest of the society.” (Emphasis supplied)

15. Accordingly, on a conspectus of the facts & circumstances and in light of the judicial pronouncements discussed hereinabove, this Court is of the considered opinion that in the absence of any cogent reliable evidence, no purpose would be served in continuing with the criminal proceedings qua the petitioners. Therefore, the present petition is allowed and FIR No.181 dated 17.06.2023, under Sections 323 & 498-A IPC, registered at Police Station Sector 17, HUDA, Jagadhri, Yamunanagar and all subsequent proceedings arising therefrom are quashed qua the present petitioners.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

27.01.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes
Yes