
(2006) 01 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 48207-M of 2006

Bhanwar Takhat Singh Rathore and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 18-01-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2006) 20 CriminalCC 1026

Hon'ble Judges : Tej Pratap Singh Mann, J

Bench : Single Bench

Advocate : Sanjeev Tamak, for the Appellant; Kartar Singh, Asstt. Advocate General, Haryana for Respondent No. 1 and R.S. Rana, for the Respondent

Final Decision : Allowed

Judgement

T.P.S. Mann, J.—The petitioners have filed the present petition for seeking quashing of FIR No. 527 dated 25.12.2005 registered at Police Station City Thanesar under Sections 498-A, 406, 323, 506, 120-B IPC.

2. Bhanwar Takhat Singh Rathore petitioner No. 1 is husband of complainant-respondent No. 2 Smt. Reena Singh while Narpat Singh Rathore and Usha Kumari-petitioner Nos.2 and 3 are her father-in-law and mother-in-law, respectively.

3. As per the FIR, Reena Singh complainant was married to Bhanwar Takhat Singh Rathore on 31.03.1990 at Jaipur. The father of the complainant gave sufficient dowry articles, including a Maruti car in the said marriage.. At that time the complainant was studying in 11th class. After two days of the marriage, she returned with her parents to Kurukshetra. Her husband and father-in-law participated in the said marriage. On seeing that father of the complainant had solemnized the marriage of elder sister of the complainant with pomp and show and given sufficient dowry, Bhanwar Takhat Singh Rathore became angry and said that his in-laws did not give any dowry to them. He took up a quarrel with

his in-law's family and then went back. The complainant resided at Kurukshetra for a period of one year but no one came from her in-laws to take her to the matrimonial home. On being asked, her in-laws demanded hefty cash and jewellery as well as valuable gifts for the relatives. The accused also asked the complainant's family to perform the gona ceremony as per their wishes. The parents of the complainant agreed to the same. A ceremony was, accordingly, scheduled to be held in the month of January 1991 and booking was made in Yatri Niwas at Kurukshetra but nobody from the side of the accused came there for two days. When the father of the complainant requested the accused persons, they came on the third day to Kurukshetra. A lot of dowry articles, gifts and cash worth Rs. 1,45,000/- was given to the accused at that time. The complainant was thereafter taken by the accused to their farmhouse at Jodhpur but was kept confined in a tubewell-room. The other accused openly asked her father to give dowry as per their status if they wanted to see the complainant settled in their family. Her husband even objected to the giving of Maruti 800 car instead of luxury car. In November 1992, the complainant became pregnant. She delivered a male child in March 1993 in a Nursing Home at Kurukshetra. Nobody from the accused side came to see her or the newly born child in spite of being informed. At the time of dasudhan ceremony, the parents of the complainant gave a sum of Rs. 10,000/- in cash but the accused were not satisfied with the same and showed their dissent. After some time, husband of the complainant started torturing and harassing her by raising demand for a luxury car. She was even beaten by her mother-in-law. Later on, Panchayats were convened wherein the accused admitted their guilt and assured not to harass the complainant in future, In spite of that, the attitude of the accused did not change. One day, the complainant found her son missing. She noticed that all the accused persons were also missing from the house. Her search at various places did not bear any fruit. When she and her parents wanted to initiate a criminal action for abduction of child, only then the accused handed over the child. She was, thereafter, sent back to Kurukshetra with her parents. On an assurance given by relatives of the accused persons, the complainant was sent to Jodhpur by her parents. The accused kept her nicely for a short period of time but thereafter started harassing her by demanding Rs. one lakh in cash. The mother of the complainant arranged a sum of Rs. 60,000/- by pledging her ornaments and while giving the same to the complainant's husband, requested him to keep her daughter and minor, child properly and nicely. In spite of that, in June, 1997, the accused again started harassing the complainant and demanded more cash. She was turned out along with her minor child. On 24.07.2005, husband and father-in-law of the complainant came to her parents house at Kurukshetra and threatened her and her parents with dire consequences. Pressure was put upon her for giving divorce. When the complainant demanded the return of the dowry articles entrusted to them on various occasions, they flatly refused to do the same. On the basis of the aforementioned allegations, FIR was registered against the petitioners and one Raja Laxman Singh-maternal uncle of complainant's husband.

4. Learned Counsel for the petitioners, while seeking quashing of the FIR, has submitted that the FIR had been registered after 16 years of marriage and after a gap of 8 years since 1997 from when petitioner Bhanwar Takhat Singh Rathore and respondent Reena Singh were residing separately. In fact, the complainant had neglected the matrimonial home and refused to perform the matrimonial obligations. Her husband was left with no other option but to file a divorce petition u/s 13 of the Hindu Marriage Act before the Family Court and the present FIR was thereafter registered as a counter-blast to the same.

5. The respondents i.e. the State of Haryana and complainant Reena Singh have filed their separate replies. The facts stated in the FIR have been reiterated by them, whereas the submissions made on behalf of the petitioners have been refuted. Accordingly, prayer has been made for dismissing the present petition. It has also been stated that the investigation has since been completed and the final report u/s 173 Cr.P.C. has been presented in the Court.

6. I have heard the Learned Counsel for the parties and gone through the material placed before me.

7. Perusal of the FIR shows that there were specific allegations of harassment and torture of the complainant by the three petitioners. Repeatedly the accused were demanding more money and dowry from the complainant, which demands were being fulfilled by the parents of the complainant. In spite of the same, the complainant used to be tortured besides being beaten. At one point of time even her minor son was kidnapped. Only when she threatened to initiate legal action that the accused restored the custody of the said child to her.

8. Though the marriage was solemnized in the year 1990 and the parties living separately since June 1997, yet that is no ground to quash the FIR. There is clear allegation in the FIR that on 24.07.2005 husband and father-in-law of the complainant came to her parents house at Kurukshetra and threatened her and her parents with dire consequences. They put pressure upon her to agree for divorce. When the complainant raised demand for the return of dowry articles, the accused flatly refused to return the same. Liven before 24.07.2005, several efforts have been made by the complainant's side to reconcile the matrimonial dispute but the accused remained adamant in their demands for a luxury car besides cash.

9. As is clear from Annexure P-5, Bhanwar Takhat Singh Rathore filed a petition for dissolution of marriage before the Family Court at Jodhpur on 07.07.2005. Notice was issued to the complainant from knocking the door of the Court to seek Redressal of her grievances. She had been harassed and maltreated by her in-laws. Demands for more dowry and cash were raised by the accused. Some of the demands were fulfilled by the parents of the complainant. Thus, it could not be said that the FIR was registered at the instance of the complainant only as a counter-blast to the institution of the divorce petition by her husband. Even otherwise, that is no ground to quash the FIR. If the FIR is to be quashed on this

ground alone, then the erring in-laws of such like complainant would rush to the Court by filing some sort of petition, may it be under the provisions of Hindu Marriage Act or any other similar law to claim that the likely registration of FIR at the instance of the complainant was nothing but a counter-blast to their earlier petitions/ cases.

10. The matter is now before the Court as the final report u/s 173 Cr.P.C. has already been submitted. The trial Court will receive evidence of the parties and deliver a judgment on the same.

11. In view of the above, no ground is made out to quash the FIR. The present petition is therefore, without any merit and is, accordingly, dismissed.

12. In case, petitioners Narpal Singh Rathore and Usha Kumari, who are father-in-law and mother-in-law respectively of complainant Reena Singh, make an application before the trial Court for the grant of exemption from personal appearance, the same shall be allowed subject to any condition which the said Court may like to impose.