

**(1991) 01 P&H CK 0089**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Miscellaneous No. 6961-M of 1989**

Gulab Singh and ors.

APPELLANT

Vs

State of Haryana and anr.

RESPONDENT

**Date of Decision :** 31-01-1991

**Acts Referred:**

**Citation :** (1991) 2 AICLR 540 : (1992) 1 RCR(Criminal) 204

**Hon'ble Judges :** G.S.Chahal, J

**Advocate :** S. N. Saini, S. S. Dinarpur, Advocates for appearing Parties

## **Judgement**

G. S. Chahal, J.

1. Gulab Singh and others, by means of this criminal miscellaneous u/s 482. Cr.P.C. seek the quashing of the FIR No. 43 dated 26.3.89, u/ss 406/498A IPC, registered at Police Station Chandi Mandir, Annexure. P1 and the order of the Judicial Magistrate 1st Class, Ambala dated 23.3.89.

2. The impugned complaint against the petitioners was made by Smt. Santosh Kumari respondent2 before the learned Magistrate who forward the same to the SHO under Section 156 Cr.P.C. for investigation and registration of a case. On the basis of the complaint, the impugned FIR was registered. According to the averments made in the complaint, respondent2 was married to Gulab Singh petitioner1 on 3.6.87. Mangat Ram petitioner2 and Smt. Gurdev Kaur petitioner3 are his parents; While Labh Singh petitioner4 and Ram Singh petitioner5 are his brothers and Kulwant Kaur petitioner6 is his sister. At the time of respondent's marriage, her father Barkha Ram gave sufficient dowry, as detailed in the FIR. Both the spouses, lived and cohabited together at village Siamru in Ambala District. After marriage, she was kept in a nice manner, but thereafter the petitioners started taunting her about insufficiency of dowry. In September 1987, petitioner1 at the instance of his other relatives, threw the respondent out of their house, remarking that either she should bring Rs. 10,000/ or a scooter from her father. Finding no alternative, she returned to her parents in just three clothes. Her father then gave Rs. 5,000/ to Gulab Singh and she returned to her

matrimonial home. However, maltreatment started soon thereafter and her husband was so cruel that he insulted her in presence of other relatives. On the visit of her maternal uncle, petitioner<sup>1</sup> again repeated his demand for Rs. 12,000/-. It was, however, explained to him that it was not possible her parents to give that amount. After her maternal uncle left for his village, the respondent was buried abuses and given beatings. Smt. Gurdev Kaur and Kulwant Kaur tried to pour kerosene on her, but she was rescued by the neighbours on 28.2.88. Petitioner<sup>1</sup> left her at her father's house, telling her that until his demand was met, he would not keep her in his house. Since then she has been living at her parents' house. All the articles of Istridhan had been retained by petitioner and his other relatives (accused persons in the complaint) and in spite of demand, the same have not been handed over to her.

3. The petitioners challenge this lodging of the FIR on the basis that respondent<sup>2</sup> went to her parents' house in February 1998 and has not returned thereafter. So petitioner<sup>1</sup> had to file a petition for restitution of conjugal rights under the Hindu Marriage Act in the Court of the District Judge, Chandigarh. Having learned about this case, respondent<sup>2</sup> filed the complaint in question as a counterblast. No offence is made out against that any of the present petitioners.

4. There are no specific allegations of entrustment of dowry articles to any particular individual. However general averment is made that the dowry articles were entrusted to the accused persons. Petitioner<sup>1</sup> and his wife, respondent<sup>2</sup> had lived together for about 8 months. It can safely be presumed that if any dowry articles were handed over to any relatives of petitioner<sup>1</sup> those must have been taken by him and his wife. There are, thus, no sufficient grounds to meet the requirements of law, to make out the offence u/s 406, IPC against the petitioners other "than Gulab Singh.

5. There are no allegations of cruelty against Mangat Ram, Labh Singh and Ram Singh, petitioners. It is only against Gulab Singh. Gurdev Kaur and Smt. Kulwant Kaur petitioners that some allegations of cruelty are made. It would be a matter of evidence to find out if the allegations made are actually correct. The marriage of respondent<sup>2</sup> having run into rough whether and petitioner<sup>1</sup> having already gone to the Court with a petition u/s 9 of the Hindu Marriage Act; respondent<sup>2</sup> has tried to implicate all relations of her husband to wreak vengeance. Such a prosecution must be described to be with an oblique motive.

6. For the foregoing reasons, I quash the impugned complaint in its entirety against Mangat Ram, Labh Singh and Ram Singh, petitioners<sup>2</sup>, 4 and 5 respectively. I also quash the complaint u/s 406 IPC against Smt. Gurdev Kaur petitioner<sup>3</sup> and Smt. Kulwant Kaur petitioner<sup>6</sup>. The case shall, however, proceed against Gulab Singh petitioner<sup>1</sup> for all offences and against Smt. Gurdev Kaur and Smt. Kulwant Kaur petitioners for offence u/s 498A IPC only. The criminal miscellaneous stands disposed of accordingly.