

(1987) 11 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 6047-M of 1987

Jagdish Rai and ors.

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 24-11-1987

Acts Referred:

Citation : (1988) 1 RCR(Criminal) 202

Hon'ble Judges : Ujagar Singh, J

Advocate : Rajesh Bindal, V.K. Bali, G.S. Bhatia, Advocates for appearing Parties

Judgement

Ujagar Singh, J.

1. A complaint was filed by respondent No. 2 on the allegations that she was married on 20.7.1984 at village Khanpur, Tehsil and District Ludhiana. After mentioning other facts in detail the prayer made was that the accused be summoned under Sections 406, 498A and 506 of the Indian Penal Code and the Dowry Prohibition Act, tried and punished according to law. The trial Court passed the following order :

".....Present: Complainant with counsel. Hence this complaint is ordered to be sent to the police station Sahnewal under Section 156(3) CrI. P.C. with a direction to the S.H.O. Police Station to register the complaint and sent copy of FIR in this case immediately and submit his report after complete investigation within 3 months....."

2. This learned counsel for the petitioners has drawn my attention to the provisions of Section 156 of the Code of Criminal Procedure which provides that any officer in charge of a Police Station may, without the order of the Magistrate investigate any cognizable case and according to subSection (3) of the aforesaid Section, any Magistrate empowered under Section 190 may order such an investigation, as above mentioned. The objection to the order is that the Magistrate could not direct the registration of the case and to sent a copy of the First Information Report. The order shows that a direction to the S.H.O. was

given to register the complaint and sent a copy of the FIR in the said case immediately and submit a report after complete investigation within 3 months. Section 156 clearly provides that a Police Officer should investigate any cognizable case and for doing this, no direction from a Magistrate is required. Offences u/s 406 and 498A of the Indian Penal Code are cognizable and the Police Officer may directly investigate these offences. The provisions of Section 506, IPC are made cognizable by issuing notification by the State Government every year. After receiving the complaint and the order of the Magistrate, the SHO sought direction from the Deputy Superintendent of Police and after discussion at higher level the case was registered. In this view of the matter, even if direction of the Magistrate, with the order for registering a case on the complaint, is some what irregular, the registration of the FIR and the investigation following it cannot be said to be illegal, as even otherwise, the Police Officer could register a case and investigate and then submit a report u/s 173 of the Code of Criminal Procedure. I am told that after investigation, a report has already been submitted before the Magistrate and it is fixed for consideration, as to what charge is made out on the documents submitted by the Police. I, therefore, do not find any merit in this petition. The same is dismissed.