

(1990) 09 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 43-M of 1990

Kamlesh Sharma and Others

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 27-09-1990

Acts Referred:

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

Citation : (1991) 1 DMC 198

Hon'ble Judges : J.S. Sekhon, J

Bench : Single Bench

Advocate : H.S. Gill, for the Appellant; B.S. Sehgal, for the Respondent

Final Decision : Allowed

Judgement

J.S. Sekhon, J.—Through this petition u/s 482 of the Code of Criminal Procedure, the petitioners seek the quashment of the case registered against them vide first information report No. 246, dated 17-12-1989, Annexure P-3 for offence under Sections 406/498A of the Indian Penal Code at Police Station Panchkula on the ground of vagueness of the allegations and the contradictory version of Mst. Anita Sharma, complainant in the report lodged by her at Police Station Panchkula on 13-12-1989 and the first information report.

2. The brief resume of relevant facts figuring in the first information report is that the marriage of Mst. Aneeta Sharma, complainant, was solemnised with Narinder. Sharma, accused on 31st October, 1989, according to Hindu religious rites. Some articles of dowry, fully described in Annexure A appended to the report, were handed over to Narinder Sharma and the latter's father Shri Bhag Ram Sharma on the occasion of the said marriage. Ravinder Sharma, accused-petitioner, is the brother of the husband of the complainant, while Smt. Beena Sharma accused is the wife of Ravinder Sharma and Smt. Kamlesh Sharma accused-petitioner, is the wife of Surinder Sharma, another brother of the husband. After about a week of the marriage, the present three petitioners along

with Narinder Sharma, husband of the complainant, started maltreating, harassing and torturing the complainant for bringing less dowry and not fulfilling their demand of Rs. 1,00,000/-. It is further stated that the husband of complainant is addicted to alcohol and gambling and used to beat the complainant mercilessly on many occasions for no rhyme or reason. The complainant apprised the accused that her parents were not in a position to make_ arrangements for Rs. 1,00,000/-. It is further mentioned that on 10-12-1989,- Narinder Sharma, husband of the complainant beat her mercilessly at the exhortation of other accused besides threatening to kill her at the point of pistol, if she failed to fetch the said amount of Rs. 1,00,000/-. On her refusal, she was turned out of her in-laws house by all the accused. The parents of the complainant accompanied by Sunil Dutt then went to the house of the accused in the village in order to persuade the accused to rehabilitate the complainant besides expressing their inability to pay Rs. 1,00,000/- as demanded by Narinder Sharma, but Narinder Sharma accused remained adamant and flatly refused to maintain her. It is further averred that Narinder Sharma lost temper and tried to assault his parents-in-law stating that he is going to Canada on 27-11-1989 and would not keep the complainant at all. The parents of the complainant then demanded back from the accused all the articles of dowry as mentioned in Annexure A but the accused flatly refused to return the same.

3. The complaint was initially lodged in the Court of Shri Dharamvir Singh, Judicial Magistrate, 1st Class, Ambala, who got registered the above referred cases after due enquiry.

4. I have heard the learned counsel for the parties besides perusing the record.

5. From the facts and circumstances of the case it appears that the sole grouse of Mst. Aneeta Sharma, complainant, is that her husband Narinder Sharma had not sent the requisite papers from Canada. Admittedly, Narinder Sharma, accused-husband of the complainant, and her father-in-law Bhag Ram are settled in Canada. Surinder Sharma, another brother of the husband, is also settled in Canada. On 27-11-1989, Sohan Lal, father of the complainant, wrote letter Annexure P-1 to aforesaid Bhag Ram, father-in-law of the complainant, indicating that he had gone to Ludhiana and brought his daughter Aneeta for 3 to 4 days to Panchkula and that he received a letter from Ludhiana to reach there for the registration of the marriage but it could not be registered due to non-availability of the paper, which Bhag Ram had sent from Canada through post on 15th of that month. Sohan Lal has further stated that probably he would receive the paper within a day or two and then the marriage would be registered. Thereafter he had exchanged some pleasantaries depicting that everybody is hale and hearty at Ludhiana and Bhag Ram had nothing to worry about. He further conveyed love to children besides wishing them all success and prosperity. Towards the end of this letter, Sohan Lal put in a usual request asking for any service from him. Thus from this letter it appears that by 27-11-1989 no untoward incident had taken place between the two spouses or between the

complainant and other members of the family of the husband, that is, the present petitioners. The marriage book place on 31-10-1989 and as per allegations of the complainant in the complaint, her husband and the other accused started mill-treating after a week of this marriage. If actually any such thing had happened, then Sohan Lal, father of the complainant, was bound to write the same in the letter Annexure P-1 to the father of his son-in-law. The matter does not rest here as Mst. Aneeta Sharma lodged a report Annexure P-2 at Police Station Panchkula on 10-12-1989, that is three days after she was allegedly turned out by the accused from her inlaws" house after her husband having beaten her mercilessly at the alleged exhortation of his co-accused, present petitioners, with the direction that she could return to their house if she procured Rs. 1,00,000/- from her parents.

Report Annexure P-2 reads as under :

"At 2.45 P.M., informant mentioned in column No. 2 accompanied by her father Sohan Lal Vasudeva and brother Sunil Dutt and Smt. Manju Vasudeva w/o Sunil Dutt came to Police Station and presented a written complaint which reads as under : To S.H.O., P.S. Panchkula. I, Aneeta Sharma wife of Narinder Sharma son of Bhag Ram Sharma of village Gill, District Ludhiana, Punjab, submit that my marriage took place on 31st October, 1989, in Panchkula. One week after I had gone to my in-laws, he asked me to bring rupees one lakh from my father and he gave me beating on my not bringing that amount. I was not allowed to go out of the house and was not even allowed to write any letter by which I could inform my parents. He threatened to kill me and many times aimed revolver at me after consuming liquor. On 10-12-1989, because of Chauki of Bala Balak Nath at Ludhiana in the house of relatives, I went to my parents. I was married in the village Gill near Ludhiana. He wanted to go back without getting the marriage registered because my father cannot fulfil the demand of rupees one lakh. All of my articles are in village Gill. I, therefore, request you to restrain him from going to Canada till this case is decided. Sd/- Aneeta Sharma. H.No. 554, Sector 12, Panchkula, dated 13-12-1989. In support of above application Shri Sohan Lal son of Shri Mahanga Ram and Shri Sunil Dutt son of Sohan Lal and Smt. Manju Vasudeva wife of Sunil Dutt corroborated the application."

6. It may be noticed that the police, however, did not register the case on that day for offences under Sections 406/498A of the Indian Penal Code on the ground of lack of jurisdiction, but simply remarked that the report be sent to Ludhiana Police by post.

7. A bare glance through this report leaves no doubt that the allegations of the complainant at the outset were against her husband Narinder Sharma. It is not even alleged in this report that her husband used to beat her or maltreat her at the exhortation of his co-accused, what to say of levelling specific allegations against them. Thus her version in the complaint dated 15-12-1989 on the basis of which the first information report was got registered regarding the accused-petitioners having exhorted her husband Narinder Sharma to maltreat the

petitioner or put in a demand of Rs. 1,00,000/- is certainly an after-thought, obviously with intent to rope in all the members of her husband's family. It is not even alleged in this report that any of the present petitioners had ever taunted her for having brought less dowry, what to say of putting any demand of Rs. 1,00,000/-more from her father. Thus it is a case of that type where at the outset the complainant had not levelled any allegations whatsoever against the present petitioners but had simply attributed having incited her husband to maltreat her at a later stage in the impugned first information report. This is not an inadvertant omission on her part to state these facts in the first report Annexure P-2 dated 13-12-1989 but a deliberate one as she appears to have become desparate when her husband started taking steps to return all alone to Canada and that is why in the complaint she had made a specific prayer that her husband be restrained from leaving India to Canada and that he is intending to leave on 27-12-1989.

8. For the reasons recorded above, there are not even remote chances of the success of the case against the present petitioner. Thus allowing, the proceedings to continue, against the present petitioners, would certainly amount to harassment to the petitioners and wastage of time of the court concerned and abuse of the legal process. Accordingly, the impugned First Information Report, Annexure P-3 as well as further proceedings resulting therefrom are quashed by accepting this petition.