
(2010) 02 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-20944 of 2008

Mohinder Kaur and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 02-02-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 405, 406, 498, 498A, 506

Citation : (2010) 32 CriminalCC 884 : (2010) 2 RCR(Criminal) 597

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Advocate : Ashok Singla, for the Appellant; Gaurav Garg Dhuriwala, AAG, Punjab, for the Respondent No. 1 and Mr. Hitesh Sood, for Mr. Harsh Aggarwal, for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Ajai Lamba, J.—This petition has been filed u/s 482 Cr.P.C. for quashing FIR No.99 dated 22.04.2008 (Annexure P1) under Sections 498-A, 406 and 506 IPC registered with Police Station, Sadar Sunam, District Sangrur.

2. FIR has been lodged at the instance of respondent No.2, Gurpreet Kaur. Gurpreet Kaur was married to Balvir Singh son of Chand Singh (non petitioner). Petitioner Nos. 1 and 2 are mother in law and father in law of the complainant. Petitioner No.3, Jagsir Singh, is brother in law (Jeth) of the complainant.

3. Learned counsel for the petitioners contends that the FIR is result of malafide and is not related to any demand of dowry or entrustment or even harassment or cruelty. Rather the recital of FIR itself indicates that the allegation is that the accused mentioned in the FIR were not happy with the fact that Gurpeet Kaur had given birth to a girl.

4. Learned counsel contends that since the allegation does not relate to demand of dowry, cruelty or criminal breach of trust, commission of offence is not spelt

out from the FIR.

5. It is further the case of the petitioners that their case is at par with that of Gurmail Kaur, Sukhwinder Kaur and Sharanjit Kaur. In such circumstances also, the petitioners are entitled to the relief as prayed for in the petition.

6. Learned counsel for the respondent-State contends that challan has been presented and charge has been framed.

7. Complainant-respondent No.2 has not filed any reply.

8. I have considered the issue.

9. Recital in the FIR is to the effect that marriage of the complainant was solemnised 3-4 years before lodging of the FIR and the complainant has a daughter aged about 2 years. The FIR further recites that the complainant has been living in her parental home and the accused have not accepted her in the matrimonial home since the birth of the daughter. A threat to kill the complainant was given and there is demand of dowry, and further that the complainant has been informed that she should leave the home due to birth of a daughter. It further transpires that before the birth of the daughter, the complainant had gone to her parental home and since then, continues to live there.

10. From perusal of the FIR, I find that allegations against Gurmail Kaur, Sukhwinder Kaur and Sharanjit Kaur are identical to that of petitioners. Petitioner No. 1 is stated to be 66 years of age and petitioner No.2 is stated to be 70 years of age. So far as petitioner No.3 is concerned, it is the case of petitioner No.3 that he resides separately with his own wife and children and he has no interest in the matrimonial affairs of the complainant and her husband namely Balvir Singh.

11. In the reply filed by way of affidavit of Pritpal Singh Thind, PPS, Deputy Superintendent of Police, Sub-Division, Sunam, no specific material has been indicated to show that the petitioners had committed the offence as alleged. The reply does not disclose the distinction in material collected against Gurmail Kaur, Sukhwinder Kaur and Sharanjit Kaur who have not been challaned and have been shown innocent as against the case of the petitioners.

12. So far as separate residence of petitioner No.3 is concerned, in response to Para 3 of the petition, there is no denial to the fact asserted.

13. Perusal of the FIR itself does not disclose particulars of any offence. It does not disclose entrustment of property to either of the petitioners specifically or dishonest misappropriation of the property. The reply filed also does not disclose the material/ evidence collected during investigation that indicates satisfaction of ingredients of Section 405 read with Section 406 IPC.

14. As per the allegations in the FIR, it seems that the complainant alleges that because she gave birth to a daughter, she was not taken back in the matrimonial home. Per-se even if the allegation is considered to be correct, offence u/s 406

or 506 IPC is not made out. Offence is stated to have been committed two years before lodging of the FIR. No specific allegations have been made in regard to commission of offence u/s 498 IPC as no particulars have been given.

15. In view of the above, I am of the considered opinion that cognizance of commission of offence is not spelt out from the FIR or from the averments made in the reply filed on behalf of the investigating agency as against the petitioners.

16. The petition is allowed.

17. FIR No.99 dated 22.04.2008 (Annexure P1) under Sections 498-A, 406 and 506 IPC registered with Police Station, Sadar Sunam, District Sangrur and consequent proceedings, qua the petitioners, are hereby quashed.