
(1997) 03 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 3926-M of 1991

Parmeshwardas Diwan

APPELLANT

Vs

Anju

RESPONDENT

Date of Decision : 21-03-1997

Acts Referred:

Citation : (1997) 3 RCR(Criminal) 305

Hon'ble Judges : Iqbal Singh, J

Advocate : Gautam Dutt, R.S. Rai, Advocates for appearing Parties

Judgement

Iqbal Singh, J.

1. The petitioners by way of this petition seeks quashing of the complaint dated 8.2.1990, Annexure P.1, and the summoning order passed by the Chief Judicial Magistrate, Faridabad dated 8.9.1990, Annexure P.2.

2. The necessary facts for deciding this petition are as under :

The complainant, Smt. Anju filed a complaint under Sections 406 and 498A IPC against Rakesh Dewan and others alleging therein that she was married to accused No. 1 on 30.1.1988 at Faridabad. Accused Nos. 2 and 3 are parents, accused No. 4 is brother, whereas accused No. 5 is his wife, accused No. 6 is also brother of her husband. It has been further stated that at the time of marriage, her parents gave in dowry various times as detailed in list marked Ex. P.1. The accused immediately after the marriage started torturing her for not bringing sufficient dowry and she was not provided even with food, and other amenities of life. She was given severe beatings by the accused No. 1 and thereafter, she left her matrimonial home and the items of dowry were retained by the accused and misappropriated by them. When the complainant asked the accused to return, they refused. Hence, the complaint was filed in the Court of Chief Judicial Magistrate. After that the complainant examined herself and the witnesses Amrit Lal and Ram Narayan. The learned Magistrate after examining the witnesses summoned the accused Nos. 1 to 3 under Section 406 IPC but found no ground

to proceed against the remaining accused.

3. I have heard learned counsel for the petitioners. None has appeared on behalf of the respondent.

4. The contention of the learned counsel for the petitioner is that this petition is a counterblast to the petition filed by the husband before the District Judge, Faridabad for a decree of divorce under Section 13(2)(b) of the Hindu Marriage Act and is a pressure tactic's has no force because this point is to be decided after recording the evidence and the case cannot be prejudged at this stage of the case.

5. The next contention of the learned counsel for the petitioner is that it was a love marriage and no ceremony was performed. Therefore, there is no question of handing over any article of dowry etc. to the petitioner. The petitioners are residing at Rajasthan for the last twenty years and therefore, no question of entrustment of any article of dowry to him. Again, this contention is to be decided after the evidence is recorded, evaluated and appreciated. This Court is not required to weigh the evidence in this petition to find out whether the case is false or true. What is required by this Court is to see that the complaint if read as a whole does disclose the commission of an offence complained therein. Perusal of the complaint goes to show the commission of the offence and the learned Magistrate was right in summoning the petitioners and not issuing process against the remaining accused who have been named in the complaint. This shows full application of the mind by the learned Magistrate.

6. Regarding quashing of criminal proceedings, the law is wellsettled. It has been repeatedly held by the Apex Court that power to quash criminal proceedings should be exercised with great caution in rarest of rare cases. This Court is not required to embark upon an enquiry to find out the truth in the allegations or appreciate the evidence. It will not be just, fair and proper to quash the proceedings at this state without there being any reasonable grounds. The trial Court is the best judge to appreciate the evidence produced before it and to hear all the pleas raised in the petition to find out whether it is fit case to proceed further or not. It is not a case that has been instituted with malice or with a view to harass the petitioners but is the result of matrimonial discord and the matter is required to be gone into by the trial Court in detail after hearing the evidence of the parties. I, therefore, in view of the guidelines laid down by the Hon'ble Supreme Court, do not find any justification of quash the complaint, Annexure P.1 and the summoning order, Annexure P.2.

7. The last submission of the learned counsel is that the petitioner be exempted from personal appearance before the trial Court. It is proper for the petitioner to make this request before the learned Magistrate for its consideration.

8. With these observations, I do not find any merit in this petition which is hereby dismissed.