

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.37617-M OF 2005

Date of Decision: 31-5-2006

1.Smt.Kamlesh @ Kuku, wife of Bhushan Kumar,(daughter of Suraj Bhan) resident of Village Channu, Tehsil Gidderbaha, District Muktsar.

2.Ambika @ Ambi wife of Amrit Pal (daughter of Suraj Bhan) resident of Bhatti Road, Street No.5, Bathinda, Tehsil and District Bathinda.

.....PETITIONERS

VERSUS

Manju Rani wife of Gopal Krishan @ Krishan Gopal @ Bittu son of Suraj Bhan son of Kundan Lal resident of Phul Road, Rampura now in the house of her father Brij Lal son of Kaur Chand, resident of Mehraj Basti Rampura, Tehsil Phul, District Bathinda.

.....RESPONDENT

CORAM:- HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.AK Khunger,Advocate
for the petitioners.

Mr.Binderjit Singh,Advocate
for the respondent.

JUDGMENT

This petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing Criminal Complaint No.26 dated 24-9-2001 filed by the respondent-Manju Rani under Sections 406/498-A/500/506/148/149 of the Indian Penal Code (Annexure P-3) and the summoning order dated 4-6-2002 passed by the Court of

Ms.DPK Bedi, PCS, Sub Divisional Judicial Magistrate, Phul (Annexure P-4) and the consequent proceedings arising out of the said complaint.

In brief, the facts of the case are that respondent-Manju Rani was married with Gopal Krishan, brother of the present petitioners according to Hindu Rites and ceremonies on 11-9-1997. After solemnization of marriage, the parties could not live together because of the peevish nature of the respondent. It is further the case of the petitioners that the parents of the respondent instigated her to file a false criminal complaint on 26-2-1999 against the petitioners, their parents and brothers in the Court of Sub Divisional Judicial Magistrate, Phul under Sections 406/498-A/506 of the Indian Penal Code. Ultimately, the said complaint was compromised due to the intervention of the respectable of the locality and respondent had started living separately with her husband in a rented house and she left her in-laws house after the compromise . A true copy of the compromise has been placed on record as Annexure P-1. At the time of compromise, the respondent took all her dowry articles from her in-laws house while shifting to her rented premises where she had started living with her husband. One iron box duly locked by the respondent was lying in the house of her in-laws at the time of compromise but that was also taken away by the respondent in December, 2000. In this way, all the dowry articles were taken by the respondent to her new house where she had started living with her husband.

According to the terms of compromise, it was settled between the parties that respondent-Manju Rani would withdraw the complaint filed by her against the petitioners and others in the Court of

Sub Divisional Judicial Magistrate, Phul and in pursuance of the same the said complaint was withdrawn, copy of the same is attached with the file as Annexure P-2.

It is the case of the petitioner No.1 Kamlesh that she was married in the year 1994 much earlier to the marriage of the respondent with her brother and she is residing happily with her in-laws in Village Channu and petitioner No.2 Ambika was also married on 30-6-2001 and she is residing at the house of her in-laws at Bhatinda.

The respondent is a lady of peevish and quarrelsome nature and she could not even adjust with her husband in the rented house for the reasons best known to her and, therefore, the respondent left her matrimonial home and presently she is residing with her parents.

Respondent-Manju Rani again filed a fresh complaint on 24-9-2001 in the Court of Sub Divisional Judicial Magistrate, Phul against the present petitioners and other accused on false and baseless allegations. A true copy of the complaint dated 24-9-2001 is annexed as Annexure P-3. In the complaint, Annexure P-3, it has been admitted by the respondent about the compromise arrived between her and her husband and other members of the family. On filing of the new complaint dated 24-9-2001 under Sections 406/498-A/506 IPC, the Sub Divisional Judicial Magistrate, Phul summoned the present petitioners along with other members of the family vide order dated 4-6-2002, which is annexed herewith as Annexure P-4. The petitioners have now sought that the fresh complaint filed by the respondent against the petitioners and other family members is an abuse of the process of the Court because at the time of previous compromise arrived between the parties, she has taken all her dowry articles

from the matrimonial home to her rented house and no article was lying in the house of the petitioners. It is further the case of the petitioners that respondent had left the matrimonial home of her husband and shifted to her parents house and while leaving she has taken all her articles with her. Therefore, there was no question of entrustment of any articles or demand of dowry by the petitioners.

According to the petitioners, the complaint is nothing but an abuse of the process of the Court as the same is liable to be quashed.

Upon notice, the respondent contested the petition and admitted the factum of earlier compromise but stated that after the compromise arrived between the parties, the respondent along with her husband had started living in a rented house for few months. Thereafter, the husband of respondent again decided to live with his parents and brought the respondent to his parents house. The attitude of the petitioners and their parents as well as husband of the respondent did not change and they again started maltreating her and demanded a sum of Rs.50,000/- The detail has also been given with respect to the entrustment of certain items at the time of marriage to the parents of the petitioners. It has been alleged therein in the reply that it is a matter of evidence to prove that the accused had committed an offence for which they have been summoned.

It is pertinent to mention here that after the filing of the complaint dated 26-9-2001, Gopal Krishan, husband of Manju Rani filed a petition for dissolution of marriage by a decree of divorce in the Court of Mr.DS Malwai, Additional District Judge, Bathinda on 12-12-2001, which was dismissed on 10-11-2003 by the Additional District Judge, Bathinda.

A copy of which has been furnished by the parties at the time of addressing arguments.

I have heard the learned counsel for the parties.

On behalf of the petitioners, it is contended that petitioner No.1 Kamlesh was married in the year 1994 and since then she is living at the house of her in-laws whereas petitioner No.2 Ambika was married in the year 2001 and she is living at the house of her in-laws at Bathinda. Therefore, there was no occasion for the present petitioners to have demanded any dowry articles or mal-treated the respondent in connection with the demand of dowry. Moreover, the articles mentioned in the complaint were never entrusted to the petitioners at the time of marriage. All the articles were given in the marriage were taken by the respondent when the compromise was arrived between the parties in the earlier complaint filed by the respondent and as per terms of compromise the respondent had started living with her husband in a rented accommodation.

On the other hand, it is stated by the learned counsel for the respondent that the respondent has not led a happy married life at the house of the brother of the petitioners and her in-laws. The allegations that the respondent is a lady of quarrelsome nature is falsify from the act and conduct of the respondent when despite of having suffered mal-treatment at the hands of the petitioners, their parents and brother, she compromised with them and to bring peace in her matrimonial life with brother of the petitioners. She has even tried to adjust by living separately in a rented house. However, the attitude of the brother of the petitioners was not up to the mark. He insisted the respondent to shift to the house of his parents. It was for the sake of matrimonial life that she decided to shift to the house of

the petitioners and their parents. However, there was no change in the attitude of the petitioners, their parents and brother on account of which, she was mal-treated and was asked to bring Rs.50,000/- The matter had not ended here. The brother of the petitioners even tried to bring an end to the matrimonial life by filing a petition under Section 13 of the Hindu Marriage Act, 1955 before the Additional District Judge, Bathinda. The said petition was dismissed by the Additional District Judge, Bathinda as the husband of the respondent-Manju Rani was found guilty for filing the false petition against the respondent. This has been done as a counter blast.

Having considered the rival submissions of the learned counsel for the parties, I am of the view that the respondent and the brother of the petitioners were not enjoying a happy married life and that various attempts were made by relations to compromise the matter had also failed. The averments made in the complaint Annexure P-3 is of serious nature and the summoning order Annexure P-4 passed by Ms.DPK Bedi, Sub Divisional Judicial Magistrate. Phul is well reasoned and legal order and cannot be termed as an abuse of the process of the Court.

In the net result, the petition under 482 of the Code of Criminal Procedure filed by the petitioners is dismissed with a direction to the trial Court to dispose of the complaint preferably within one year from the date of receipt of a copy of the order.

May 31, 2006
jt

(R S MADAN)
JUDGE