

**IN THE COURT OF KUSHAL SINGLA, PCS.
JUDICIAL MAGISTRATE 1st CLASS, CHANDIGARH.**

Crl. Case No : 572
Date of Instt. : 17.2.2016
Date of decision : 12.6.2017

State Versus Rohit Sharma s/o Sh. MM Sharma
r/o E-239, Sarita Vihar, New Delhi.

...Accused

FIR No.414 dated 1.9.2014
Under Sections: 406, 498A IPC
Police Station: 34
Chandigarh.

Present: Sh.Loveenish, APP for the State.
Accused on bail with counsel.

ORDER

1 Arguments heard on the application under Section 239 Cr.P.C. For discharging the accused in the aforementioned case registered under Section 406/498A IPC.

2 Ld. Counsel for applicant/accused argued that the present case was registered against the applicant/accused Rohit Sharma by her wife ie Deepa Chadha u/s 406/498A IPC. As per the documents relied by the prosecution and attached along with the challan submitted by the prosecution it is clearly manifested that if any offence which the prosecution is alleging against the accused, it has taken place in the matrimonial house of the complainant. A perusal of the FIR would also show that nowhere the complainant had stated that cohabitation had ever taken place between the parties at Chandigarh. He further argued that the complainant Deepa Chadha is living in Gurgaon from last 14 years and is working in the Office of Airtel, Gurgaon and Sh. Rohit Sharma

accused is also living in Delhi. After the marriage the couple has stayed either in Delhi or in Gurgaon and have never stayed in Chandigarh. Even as per the FIR and challan submitted by the prosecution, it is crystal clear that if any offence is being alleged to have taken place it is at the matrimonial house of the complainant i.e. at Delhi. Though no specific allegations has been made against the accused and in view to harass the applicant the complainant has filed an FIR against the applicant in a clandestine manner and in connivance with the local police authorities as her mother Saroj Chadha lives in Chandigarh. It is also averred that the present FIR is being registered against the accused after the filing of the divorce petition after 4 months approximately and also divorce has been granted to him. He further argued that a vague and general allegations without any specific instances are made just to settle personal scores. No specific instance for harassment was given and general allegations have been made. The allegations made in the FIR even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. That it has also been held by Hon'ble Punjab and Haryana High Court in **Sushil Kumar and Another Vs. State of Punjab and Another Criminal Misc. No.31353 of 2014** wherein it can be interpreted that where a criminal proceedings is manifestly attended with mala fide or where the proceedings is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge the court may quash the FIR. He further argued that the statements recorded by the IO under Section 161 Cr.P.C. are of the interested witnesses and not a single independent witness has been examined by the prosecution. The detail of articles allegedly entrusted to the accused had been given for relatives or for his family but nothing specific was mentioned as to what item was handed over to the accused. Also the customary gifts given to in-laws family do not fall within the definition of

dowry. He further argued that as per the mandate of Section 177 of Cr.P.C., “every offence shall ordinarily be enquired into and tried by a court within whose local jurisdiction it was committed.” Therefore, as per the clear mandate laid down in Cr.P.C., that the present Hon'ble Court does not have jurisdiction to try the present case. He further argued that frivolous criminal case has been filed by the complainant against her husband with view to harass him and so that he is being made run from one place to another and due to this very act of the complainant she has abuse the process of court and has created a grave mental and physical agony to the applicant as the applicant is working in Delhi and he has to be appeared before the court every time the date is fixed and is also suffering loss in his work.

3 On the other hand Id. APP for the State argued that the case was registered after obtaining legal opinion of ADA/Legal and the complainant come to her parents house in Chandigarh, when she was forcibly shunted out of her matrimonial house by the accused husband. He further argued that the FIR was lodged as per facts brought on record by the complainant and duly substantiated during the course of investigation and the challan was sent to Court against the accused as sufficient evidence came on record against him. He further argued that the dowry articles recovered on the instance of accused as per the seizure memo after identification of the complainant.

4 I have heard learned counsel for applicant/accused and Id. APP for the State and have gone through the case file carefully and minutely.

5 From the perusal of the file it reveals that the marriage between the parties has been dissolved on 31st March, 2016 vide orders of Sh. Ranjit Kumar Jain, Id. Additional District Judge,

Chandigarh. From the perusal of the file it reveals that there are vague and general allegations as to the cruelty. No specific instance of cruelty has been stated by the complainant as they are living separately now. It is not desirable to frame the charges against the accused under the Sections as the matter has already been compromised between the parties. Furthermore, the articles allegedly entrusted to the accused have been handed over to the complainant. Furthermore, the grievance of the complainant is redressed now as she has obtained her articles of istridhan. The parties are living separately now after divorce. It is pertinent to mention here that this case has been filed by the complainant just to harass her husband and to cause him mental and physical agony as the accused in this case is working in Delhi. And he has to appear in this court by which his working is suffering. Hence, the accused under the present FIR is hereby discharged u/s 406, 498/A IPC. Application in hand stands allowed. His bail bonds and surety bonds stands discharged. File be consigned to the record room after due compliance.

Announced
12.6.2017

Kushal Singla
Judicial Magistrate 1st Class
Chandigarh

Present: Sh. Loveenish, APP for the State.
Accused on bail with counsel.

Arguments heard. Vide my separate order of the even date, the accused Rohit under the present FIR is hereby discharged u/s 406, 498/A IPC. Application in hand stands allowed. His bail bonds and surety bonds stands discharged. File be consigned to the record room after due compliance.

Announced
12.6.2017

Kushal Singla
Judicial Magistrate 1st Class
Chandigarh