

**IN THE COURT OF SUNIL JINDAL,
ADDITIONAL CIVIL JUDGE (SR.DIVN.),
YAMUNA NAGAR AT JAGADHRI
(UID NO.HR0214)**

CNR No.HRYN02-002952-2017.	CIS No.2051/2017.
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Case No. 333-CS.

Date of Institution: 06.11.2017.

Date of Decision: 14.05.2018.

Vikas Kakkar, aged about 34 years, son of Sat Parkash Kakkar, resident of House No.4, Vishal Nagar, Yamuna Nagar, Tehsil Jagadhri, District Yamuna Nagar.

----- Plaintiff.

versus

1. Mukti wife of Vikas Kakkar daughter of Harpal Singh,
2. Kamlesh wife of Harpal Singh,
3. Basant son of Harpal Singh,

all residents of House No.648, Kartarpura, near Gurudwara,
Yamuna Nagar, Tehsil Jagadhri, District Yamuna Nagar.

----- Defendants.

SUIT FOR MANDATORY INJUNCTION

Present: Shri Amandeep Singh, Advocate for plaintiff.
Shri Manish Kashyap, Advocate for defendants.

(Sunil Jindal)
Addl. Civil Judge (Sr.Divn.),
Yamuna Nagar at Jagadhri.
(UID No.HR0214)
14.05.2018.

JUDGMENT

Present suit has been filed by the plaintiff against the defendants for seeking the relief of mandatory injunction to direct the defendants not to interfere in the peaceful life of the plaintiff and to restrain them not to threat and harass the plaintiff by way of involving in false complaints/cases.

2. Brief facts of the present case sans unnecessary details are that defendant No.1 is wife of plaintiff, defendant No.2 is mother-in-law of plaintiff and defendant No.3 is brother-in-law of plaintiff. Marriage of the plaintiff was solemnised with defendant No.1, on dated 04.11.2011, accordingly to Hindu rites and ceremonies at Hotel Sapphire, Jagadhri. It was a dowry-less marriage. After marriage, plaintiff and defendant No.1 started living together and co-habited with each other as husband and wife. Out of this wedlock, one girl child namely Saundraya, was born on 11.03.2013. After marriage, defendant No.1 has never given any respect to plaintiff. She always forced the plaintiff to stay separate from his parents. Plaintiff refused the same, because he has to look after his old aged parents. Thereafter, she used to quarrel with the plaintiff and with his parents. Defendant No.1 had given false complaint against the plaintiff just to extort money and property from the plaintiff and his family members. Defendant No.1 threatened the plaintiff that if plaintiff will not

take his share in the property from his parents, then, she will not stay with him and will also involve him in false cases. Said complaint was compromised and the condition was imposed by defendant No.1 that parents of the plaintiff will give a plot to the plaintiff and plaintiff will not sell the same plot without the permission of defendant No.1. Defendant No.1 used to quarrel with the plaintiff in front of general public. She also slapped the plaintiff in front of many people. Defendants No.2 and 3 also interfered in the life of the plaintiff. They used to provoke the defendant No.1 against the plaintiff. Defendants No.2 and 3 used to demand money from the plaintiff. Parents of the plaintiff had transferred the plot in the name of the plaintiff just to save the matrimonial life of the plaintiff. Defendant No.1 was not having any love and affection towards the minor child Saundraya. Defendants are very clever and influential person. They have approach the higher links and police officers. Defendant used to threat the plaintiff that police and law is in their hands. Plaintiff requested many times to the defendants, but all in vain. Hence, present suit has been filed by the plaintiff.

3. Upon notice, defendant appeared and filed written statement while taking preliminary objections of locus standi; cause of action; estoppel and plaintiff has concealed facts from the Court.

On merits, it is stated that plaintiff and defendant No.1 were

in love affair with each other. They got married on 09.10.2010 at Delhi without the knowledge of the family members of both the parties. After sometime, family members of the plaintiff and defendant No.1 accepted their relation and they were asked by the family members that they must marry again as per Hindu rites and ceremony. Accordingly, marriage of defendant No.1 with plaintiff was performed in a very decent manner. Parents of defendant No.1 had given gold articles/jewellery to the plaintiff. They spent amount of Rs.15 lacs on the marriage. After marriage, plaintiff and his family members started taunting defendant No.1 that she has brought less dowry. They started demanding cash and car. When defendant No.1 showed inability of her parents to clear the demand of the plaintiff and his family members, then, plaintiff and his family members became furious and started giving merciless beatings to defendant No.1. Plaintiff and his family members gave poison to defendant No.1 with the intention to kill her. Plaintiff and his family members were harassing defendant No.1 mentally as well as physically. Panchayat was convened. In the said panchayat, plaintiff and his family members admitted their guilt and assured that in future no demand of any kind will be raised, but they did not mend their ways. They used to taunting defendant No.1 that she has given birth to a female child and has not given birth to a male child. Plaintiff and his family members pressured

defendant No.1 to bring car and cash from her parents. Plaintiff and his family members never cared about the defendant No.1. Other facts of the plaint are denied and a prayer for dismissal of the same is made.

4. On the pleadings of the parties, following issues were framed vide order dated 27.03.2018:-

1. Whether the plaintiff is entitled for the relief of mandatory injunction, as prayed for? OPP.
2. Whether the suit of the plaintiff is not maintainable? OPD.
3. Whether the plaintiff has no locus standi to file the present suit? OPD.
4. Whether the plaintiff has got no cause of action to file the present suit? OPD.
5. Whether the plaintiff is estopped from filing the present suit by his own acts and conduct? OPD.
6. Whether the plaintiff has concealed the true and material facts from the Court? OPD.
7. Relief.

5. In order to prove his case, plaintiff Vikas Kakkar himself appeared in the witness box as PW1 and proved following documentary evidence:-

Ex.P1 Certified copy of application given to police.

Mark-A Photostat Copy of FIR No.162 dated 15.04.2018, PS
Farakpur.

Thereafter, evidence of the plaintiff was closed.

6. On the other hand, defendants have examined Basant (defendant No.3) as DW1. However, no documentary evidence has been led by the defendants and the evidence of defendant was closed.

7. No rebuttal evidence has been produced by the plaintiffs and the same was closed by learned counsel for plaintiff No.4.

8. I have heard learned counsel for both the parties and have gone through the case file very carefully. My issue-wise finding with the reasons thereof is as under:-

ISSUE NO.1

9. Learned counsel for the plaintiff argued that defendant No.1 is legally wedded wife of plaintiff. Defendant No.2 is mother-in-law of the plaintiff and defendant No.3 is brother-in-law of the plaintiff. It is further submitted that defendants have been interfering in the peaceful life of the plaintiff. It is further argued that defendants are threatening the plaintiff that they will involve him in false/frivolous criminal cases because they have approach in police authority. It is further urged that defendants have no right or entitlement to interfere in the life of the plaintiff. Plaintiff has proved his case by leading cogent and convincing

evidence. With these submissions, a prayer is made to decree the present suit with costs.

10. Per contra, learned counsel for defendants argued that false suit has been filed by the plaintiff against the defendants. No specific relief has been claimed by the plaintiff against the defendants. It is further submitted that plaintiff cannot seek mandatory injunction to direct the defendants to restrain them from interfering in the life of the plaintiff. It is further submitted that plaintiff cannot seek the mandatory injunction to direct the defendant to restrain them from taking any lawful action against the plaintiff. It is further argued that no legal relief has been claimed by the plaintiff in the present case. It is further urged that plaintiff has failed to prove its case by leading cogent and convincing evidence. With these submissions, a prayer is made to dismiss the present suit with costs.

11. I have considered the rival contentions of both the counsels and have gone through the case file very carefully.

12. Admittedly, defendant No. 1 is legally wedded wife of plaintiff. Defendant No.2 is mother-in-law of plaintiff and defendant No.3 is brother-in-law of the plaintiff. Plaintiff has filed present suit for seeking the relief of mandatory injunction to direct the defendants not to interfere in the peaceful life of the plaintiff and to restrain them from filing false applications/litigations against the plaintiff. Plaintiff has not given any

specific explanation/detail regarding the fact that how defendants have been interfering in the life of the plaintiff. Court has failed to understand that how a person can be restrained from interfering in the life of other person. There is no parameter/instrument to calculate the incidents which amounts to interfering in the life of other persons. Plaintiff has also claimed the relief to direct the defendants to restrain them from filing false applications/litigations against the plaintiff. No injunction can be granted against a person to restrain him/her from pursuing any legal action. No such type of injunction can be granted against the defendants to restrain them from filing litigation and applications against the plaintiff. If defendants file any application or litigation against the defendant, then, law will take its own course and only in that litigation, it will be decided whether that litigation is false or not. Both the reliefs claimed by the plaintiff are not feasible. In view of the above discussion, plaintiff has failed to prove this issue.

13. Accordingly, issue No.1 is thus, decided against the plaintiff.

ISSUES NO.2 TO 6.

14. The onus to prove these issues was upon the defendants. However, these issues were not pressed at the time of arguments and, therefore, same shall be deemed to have been given up.

ISSUE NO.7 (RELIEF).

15. In view of above discussion, the present suit of plaintiff fails and the same is hereby dismissed. There is no order as to costs. Decree sheet be drawn accordingly.

Announced:
Dated: 14.05.2018.

(Sunil Jindal)
Addl. Civil Judge(Sr.Divn).
Yamuna Nagar at Jagadhri.
(UID No.HR0214)

Note: All the nine pages of this Judgment have been checked and signed by me.

(Sunil Jindal)
ACJ(JD), Jagadhri.
14.05.2018.

Devi Dayal,
Stenographer Gr.II

(Sunil Jindal)
Addl. Civil Judge (Sr.Divn.),
Yamuna Nagar at Jagadhri.
(UID No.HR0214)
14.05.2018.