

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT  
CHANDIGARH**

**CRM-M-15435-2014**  
**Date of decision:18.9.2015**

Sarla Devi and another

...Petitioners

**Versus**

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

**Present:** Mr.N.S.Shekhawat, Advocate for the petitioners.  
Mr.Ashish Yadav, Addl. A.G., Haryana.  
Mr.Akshay Jindal, Advocate for respondent No.2.

**RAMESHWAR SINGH MALIK, J. (Oral)**

Petitioners have approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), invoking its inherent jurisdiction for quashing of FIR No.1071 dated 24.11.2013 registered under Sections 498-A, 406, 323, 506 and 120-B of the Indian Penal Code ('IPC' for short), at Police Station Civil Lines, Hisar and also the consequential criminal proceedings arising therefrom.

Notice of motion was issued and pursuant thereto, reply by way of affidavit dated 30.7.2014 was filed on behalf of respondent No.1-State of Haryana. Complainant-respondent No.2 filed her separate reply.

Learned counsel for the petitioners submits that the impugned FIR does not disclose any cognizable offence against the petitioners, they being parents-in-law of complainant-respondent No.2. He further submits

that marriage of Gaurav Juneja, son of the petitioners, took place on 18.2.2012 with complainant-respondent No.2. Since both the husband and wife could not pull on well together for long, a divorce petition was filed by the husband on 6.5.2013 (Annexure P-13). In the meantime, when the complainant-wife was staying at her matrimonial home in Gurgaon with her husband, brother and sister of the complainant came, in the absence of husband of the complainant who was away to his work place and took away the complainant with them. Thereafter, they maltreated the complainant because of which she filed a complaint against them. That complaint was enquired into by the police vide DDR dated 2.12.2012 (Annexure P-8). Accordingly, kalendra dated 26.12.2012 (Annexure P-11) under Sections 107/151 Cr.P.C. was recorded. Complainant moved a similar complaint earlier also which was gone into by the police and allegations were found baseless as per report dated 13.11.2013 (Annexure P-12). He would next contend that a concocted story has been put forth in the impugned FIR. Petitioners have no role to play in this regard. He concluded by submitting that even after taking the allegations leveled against the petitioners to be true on their face value, still no offence is made out against the petitioners. In support of his contentions, he places reliance on two judgments of the Hon'ble Supreme Court in **Onkar Nath Mishra and others v. State (NCT of Delhi) and another, 2008(2) SCC 561** and **Shakson Belthissor v. State of Kerala and another, 2009 (14) SCC 466**. He prays for quashing the impugned FIR and consequential proceedings arising therefrom, by allowing the present petition.

On the other hand, learned counsel for the State as well as

learned counsel for the complainant vehemently contended that since the allegations against the petitioners were direct and serious, cognizable offences are clearly disclosed. It were the petitioners, who had been poisoning the mind of the husband of the complainant and they had been together maltreating the respondent-complainant causing her mental as well as physical cruelty, during her stay with the petitioners. It were the petitioners, who had been instigating their son Gaurav Juneja-husband of the complainant, thereby playing an active and negative role. So far as the alleged incident was concerned, when the complainant was carrying a pregnancy of seven months and was being badly neglected by the petitioners as well as their son Gaurav Juneja-husband of the complainant, she was left with no other option except to request her brother and sister to take her to the hospital, so that she may get required medical treatment in time.

They would contend that in fact, petitioners as well as their son Gaurav Juneja-husband of the complainant had been together forcing the complainant to get her pregnancy terminated for which she did not agree. The complainant gave a birth to a female child on 7.1.2013. So far as DDR (Annexure P-8) and kalendra (Annexure P-11) are concerned, all was got done by the accused persons in connivance with each other including the petitioners and the complainant had no other option except to proceed further on the dictates of petitioners so as to save her marriage. The accused forcibly took the signatures of the complainant and prepared the complaint against her brother and sister. They further submit that since the learned trial Court has already found a prima facie case against the petitioners and

they have been charge sheeted on 21.8.2014, the present petition is liable to be dismissed. To buttress his submissions, learned counsel for the respondent-complainant places reliance on a judgment of the Hon'ble Supreme Court in **State of Punjab v. Davinder Pal Singh Bhullar and others, 2012 (1) RCR (Crl.) 126**. They pray for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in view of the peculiar fact situation of the present case, instant one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

A combined reading of the numerous documents available on record and particularly the impugned FIR, which is a detailed one, would show that the petitioners cannot claim themselves to be innocent, because the allegations against them are direct and serious, which has clearly established their active participation and involvement in the commission of offences alleged against them. No mini trial is permissible at this stage. This Court would be exceeding its jurisdiction, while converting itself into the trial court. Having said that, this Court feels no hesitation to conclude that since the impugned FIR discloses cognizable offences against the petitioners, the same is not liable to be quashed and the present petition, being without any merit, is bound to fail. No legitimate prosecution can be

quashed by this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

In the present case, prosecution, which has been launched against the petitioners, has been found to be a genuine and legitimate one. Petitioners were granted opportunity to settle the matter amicably, but they failed before the Mediation Centre of this Court as well. Further, although it is not the ground for dismissal of the present petition, yet it is a matter of record that the learned trial Court has found a prima facie case against the petitioners and accordingly charges were framed against them vide order dated 21.8.2014.

Coming to the judgments relied upon by the learned counsel for the petitioners, there is no dispute about the law laid down therein. However, on close perusal of the cited judgments, none of them has been found of any help to the petitioners. So far as **Onkar Nath Mishra's** case (supra) is concerned, the same was rendered by the Hon'ble Supreme Court on the issue of jurisdiction of the Court for framing of charge. Similarly, in **Shakson Belthissor's** case (supra) the judgment was rendered on entirely different set of facts. Further, it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**

In fact, in view of the totality of facts and circumstances of the case noticed hereinabove, petitioners have not been found entitled to invoke

the inherent jurisdiction of this Court, because the prosecution launched against them has been found to be a justified one. Issues raised by the petitioners before this Court do not qualify the tests specifically laid down under Section 482 Cr.P.C. itself. Jurisdiction of this Court under Section 482 Cr.P.C. cannot be stretched to stifle legitimate prosecution, Neither any case of abuse of process of court has been made out nor, in the given fact situation herein, it is just and expedient to exercise the inherent jurisdiction under Section 482 Cr.P.C., at the hands of this Court. No doubt, the jurisdiction of this Court under Section 482 Cr.P.C. is wide enough, yet it is equally true that the inherent powers are to be exercised sparingly and with circumspection.

The above-said view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in **State of Karnataka v. M.Devendrappa, 2002 (3) SCC 89, State of A.P. v. Golconda Linga Swamy and another, (2004) 6 SCC 522, State of Punjab v. Davinder Pal Singh Bhullar, 2012 (1) RCR (Crl.) 126 and Suman v. State of Rajasthan and another, 2010 (1) SCC 250.**

The relevant observations made by the Hon'ble Supreme Court in paras 31 to 33 of its judgment in **Davinder Pal Singh Bhullar's** case (supra), which can be gainfully followed in the present case, read as under:-

#### ***IV. INHERENT POWERS UNDER SECTION 482 Cr.P.C.***

*The inherent power under Section 482 Cr.P.C. is intended to prevent the abuse of the process of the Court and to secure the ends of justice. Such power cannot be exercised to do something which is expressly barred under the Cr.P.C. If any consideration of the facts by way of review is not*

*permissible under the Cr.P.C. and is expressly barred, it is not for the Court to exercise its inherent power to reconsider the matter and record a conflicting decision. If there had been change in the circumstances of the case, it would be in order for the High Court to exercise its inherent powers in the prevailing circumstances and pass appropriate orders to secure the ends of justice or to prevent the abuse of the process of the Court. Where there are no such changed circumstances and the decision has to be arrived at on the facts that existed as on the date of the earlier order, the exercise of the power to reconsider the same materials to arrive at different conclusion is in effect a review, which is expressly barred under Section 362 Cr.P.C. (See: **Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee & Anr, (1990) 2 SCC 437**).*

*The inherent power of the court under Section 482 Cr.P.C. is saved only where an order has been passed by the criminal court which is required to be set aside to secure the ends of justice or where the proceeding pending before a court, amounts to abuse of the process of court. Therefore, such powers can be exercised by the High Court in relation to a matter pending before a criminal court or where a power is exercised by the court under the Cr.P.C. Inherent powers cannot be exercised assuming that the statute conferred an unfettered and arbitrary jurisdiction, nor can the High Court act at its whim or caprice. The statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. (Vide: **Kurukshetra University & Anr. v. State of Haryana & Anr., AIR 1977 Supreme Court 2229; and State of W.B. & Ors. v. Sujit Kumar Rana, (2004) 4 SCC 129**).*

*The power under Section 482 Cr.P.C. cannot be resorted to if there is a specific provision in the Cr.P.C. for the redressal of the grievance of the aggrieved party or where alternative remedy is available. Such powers cannot be*

*exercised as against the express bar of the law and engrafted in any other provision of the Cr.P.C. Such powers can be exercised to secure the ends of justice and to prevent the abuse of the process of court. However, such expressions do not confer unlimited/unfettered jurisdiction on the High Court as the "ends of justice" and "abuse of the process of the court" have to be dealt with in accordance with law including the procedural law and not otherwise. Such powers can be exercised ex debito justitiae to do real and substantial justice as the courts have been conferred such inherent jurisdiction, in absence of any express provision, as inherent in their constitution, or such powers as are necessary to do the right and to undo a wrong in course of administration of justice as provided in the legal maxim "quando lex aliquid aliunde, concedit, conceditur et id sine quo res ipsa esse non potest". However, the High Court has not been given nor does it possess any inherent power to make any order, which in the opinion of the court, could be in the interest of justice as the statutory provision is not intended to by-pass the procedure prescribed. (Vide: **Lalit Mohan Mondal & Ors. v. Benoyendra Nath Chatterjee**, AIR 1982 SC 785 **Rameshchandra Nandlal Parikh v. State of Gujarat & Anr.**, 2006(1) R.C.R.(Criminal) 675 : 2006(1) Apex Criminal 224 ; AIR 2006 SC 915; **Central Bureau of Investigation v. Ravi Shankar Srivastava, IAS & Anr.**, 2006(3) Apex Criminal 65: AIR 2006 SC 2872 **Inder Mohan Goswami & Anr. v. State of Uttaranchal & Ors.**, 2007 (4) R.C.R.(Criminal) 548 : 2007(5) R.A.J. 451: AIR 2008 SC 251 and **Pankaj Kumar v. State of Maharashtra & Ors.**, 2008 (4) R.C.R.(Criminal) 890 : 2008(6) R.A.J. 293: AIR 2008 SC 3077)."*

Reverting back to the peculiar fact situation of the present case

and respectfully following the law laid down by the Hon'ble Supreme Court,

in the judgments referred to hereinabove, it is unhesitatingly held that since bare reading of the impugned FIR discloses cognizable offences against the petitioners, prosecution launched against them has been found to be a legitimate prosecution, therefore, instant petition is liable to be dismissed, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that this petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present petition stands dismissed, however, with no order as to costs.

**18.9.2015**  
**mks**

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**