

CRM-M-21411-2013

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision: 03.09.2015

Renu Sharma and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.K. Shukla, Advocate,
for the petitioners.

Mr. A.S. Sidhu, AAG, Punjab.

Mr. G.S. Bains, Advocate, for
Mr. Vijay Shharma, Advocate, for respondent No.2.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.300, dated 02.07.2009, under Sections 406, 498-A, 323 and 506 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Kotwali, Patiala and all consequential proceedings arising therefrom.

Learned counsel for the petitioners has submitted that petitioners No.1 and 2 are the married sister-in-laws of the complainant, whereas, petitioner No.3 is the husband of petitioner No.2. Learned counsel has further submitted that there were no specific allegation of demand of dowry by the

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petitioners. Petitioners had been merely involved in this case due to their relationship with the complainant. Brother of petitioners No.1 and 2 and the complainant had already got decree of divorce on the basis of mutual consent.

Learned State counsel as well as counsel for respondent No.2, on the other hand, have opposed the petition.

Learned counsel for respondent No.2 has submitted that all the accused in connivance with each other had been harassing the complainant on account of insufficiency of dowry etc.

In the case of **State of Haryana vs. Bhajan Lal, 1992 Supp (1) Supreme Court Cases 335**, the Apex Court has held as under:-

“The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

(1) Where the allegations made in the first information report or the complainant/respondent No.2, even if

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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.

- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or

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where there is specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

(7)Where a criminal proceeding is manifestly attended with mala fide and/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.

We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

In **Kans Raj vs. State of Punjab and others, 2000 (2)**

RCR (Criminal) 696 (SC), their Lordships of the Apex Court have observed that a tendency has developed for roping in all the relations in dowry cases and if it is not discouraged, it is likely to affect case of the prosecution even against the real culprits. The efforts for involving the other relations ultimately weaken the case of the prosecution even against the real accused.

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Annexure P-1 is the copy of the FIR. A perusal of the same reveals that there is no specific allegation against the petitioners qua demand of dowry or harassment meted out to the complainant on account of insufficiency of dowry. Rather vague allegations have been levelled against the petitioners in the FIR. Petitioners No.1 and 2 are the married sister-in-laws of the complainant. It appears that the petitioners have been involved in this case merely because of their relationship with the husband of the complainant.

Annexure P-6 is the copy of the judgment/decreed dated 13.12.2012, whereby, marriage between the complainant and Kapil Kumar Sharma brother of petitioners No.1 and 2 was dissolved on the basis of mutual consent. A perusal of the judgment reveals that in the said proceedings, complainant had stated that she would give her consent qua quashing of the FIR in question. Complainant have received the amount settled between the parties in terms of the compromise.

In view of the above factual position, continuation of criminal proceedings would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No.300, dated 02.07.2009, under Sections 406, 498-A, 323 and 506,

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IPC, registered at Police Station Kotwali, Patiala and all consequential proceedings arising therefrom qua the petitioners, are quashed.

September 03, 2015
kapil

(SABINA)
JUDGE