

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM no.M-29792 of 2011 (O&M)

Date of Decision : 01.04.2015

Jasvir Kaur and another

....Petitioners

Versus

Manpreet Kaur

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1)Whether reporters of local newspapers may be allowed to see the judgment?

2) To be referred to the Reporters or not?

3) Whether the judgment should be reported in the Digest?

Present : Mr. Vijay Lath, Advocate for the petitioners

None for the respondent

MAHESH GROVER, J.

There is no representation on behalf of the respondent despite the fact that the case has been called out twice during the course of the day.

The Court has perused the material on record.

This is a petition under Section 482 Cr.P.C praying for quashing of complaint case no. 51/2/11 dated 21.5.2011 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and summoning order dated 21.5.2011 passed by learned Judicial Magistrate, First Class, Jalandhar on the ground that the allegations set out against the petitioners are vague and frivolous and even if accepted to be true are unlikely to result in conviction.

The stand of the respondent evidently is indicative of the involvement of the petitioners.

It is settled proposition of law that powers under Section 482

Cr.P.C can be exercised to quash the proceedings in case abuse is writ large on the face of it and if upon perusal of the complaint it discloses any offence and the consequent proceedings even if permitted to stand are unlikely to result in conviction of the accused.

Hon'ble Supreme Court in case **State of Haryana and others versus Bhajan Lal and others** reported as AIR 1992 SC 604 laid down the following principles for considering the quashing of a complaint:-

1. Where the allegations made in the First Information Report or the complaint, 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.
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 a 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 where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding 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.”

If the aforesaid test is applied to the present complaint it becomes clear that the allegations against the petitioners are completely vague. In para 3 of the complaint the complainant merely brackets the present petitioners alongwith other relatives to be responsible for harassing her and of regretting the decision of marriage of the complainant with their nephew. Similarly, in para 3 (e) it has been stated that the present petitioners have proclaimed dis-continuation of the matrimonial relation of the complainant with their nephew.

This to the mind of the Court are totally vague allegations and do not even remotely suggest the commission of any offence. This would

thus be a fit case for the Court to exercise its power under Section 482 Cr.P.C to quash the complaint and the consequent proceedings qua the petitioners. Besides in almost similar circumstances this Court had intervened to quash the proceedings against another set of accused namely Sandeep Kaur and Sarabjit Singh who have been arrayed as respondent nos. 6 and 7 in the aforesaid complaint. It is to be noticed that in the complaint the present petitioners alongwith the petitioners in CRM no. M-27643 of 2011 have been bracketed altogether as respondents no. 4 to 7 and vague allegations being attributed to them. Finding no distinction in the case of the present petitioners as also of the petitioners in CRM no.27643 of 2011 and also for the reasons which have been noticed above, instant petition is accepted. It is directed that complaint case no. 51/2/11 dated 21.5.2011 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and summoning order dated 21.5.2011 passed by learned Judicial Magistrate, First Class, Jalandhar are hereby quashed qua the present petitioners.

April 01, 2015
rekha

(MAHESH GROVER)
JUDGE