

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.2961 of 2013 (O&M)
Decided on : 07.04.2015**

Vishal Sehgal & others

.... Petitioner(s)

Vs.

State of Punjab & anr.

.... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. Vaneet Sharma, Advocate
for the petitioners.

Mr. Deepak Garg, AAG, Punjab.

Mr. Vaibhav Narang, Advocate
for respondent No.2.

MAHESH GROVER, J.(Oral)

This is a petition under Section 482 Cr.P.C praying for quashing of FIR No.82 dated 25.02.2012 registered under Sections 498-A, 406 & 120-B IPC at Police Station Civil Lines, Amritsar and all consequential proceedings arising therefrom on the basis of a compromise.

Learned counsel for the petitioners submits that he does not press the instant petition qua petitioner No.1 – Vishal Sehgal.

In view of this, present petition qua petitioner No.1 is dismissed as not pressed.

As far as other two petitioners are concerned namely Samriti Sekhri and her husband Sh.Pankaj Sekhri, it is submitted that the bare reading of the FIR does not show any specific allegation against them. It is further stated that both the petitioners got married

in the year 1998 and have two daughters and are residing separately. It is, thus, contended that both of them have no role to play in marital affair of the complainant and her husband – Vivek Sehgal.

Learned counsel for the respondent, on the other hand, would refer to the FIR to contend that the complainant has been unduly harassed on account of dowry by all the accused persons. Challan has been submitted and charges have also been framed; thus, at this stage when the petitioners did not avail of any remedy against framing of charges then the proceedings under Section 482 Cr.P.C. seeking quashing of the FIR would not be justified.

I have heard learned counsel for the parties and with their assistance perused the record.

The powers under Section 482 Cr.P.C. are intended to thwart an abuse of process of law. It is settled proposition of law that such powers can be exercised at any stage of the proceedings.

From the perusal of the FIR, it transpires that general allegations have been levelled against the petitioners without there being any specific material in this regard. The complainant has submitted a lengthy complaint without really pointing out to the role of the petitioners.

In the considered view of this Court, the allegations as set out in the FIR against the present two petitioners i.e. Petitioners No.2 & 3, even if accepted, to be true would hardly constitute any offence for lack of specific allegations. Besides this, both the petitioners were married in the year 1998 and with their two daughters are residing separately. This would imply remote possibility of involvement of these persons in the marital affairs of the

complainant and her husband Vivek Sehgal.

The Court is also conscious of the fact that complainant in a such like matter has a tendency to aggravate the magnitude of the allegations and to enlarge the array of accused persons, driven by a sense of vendetta.

In the case of ***State of Haryana and others versus Bhajan Lal and others, AIR 1992 SC 604*** following principles were laid down 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.”*

The Hon'ble Supreme Court in ***Geeta Mehrotra & anr. vs. State of U.P. & anr., 2012(4) RCR (Crl.) 812*** held as follows:

19. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

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24. *However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegation of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasize by highlighting is that, if*

the FIR as it stands does not disclose specific allegation against accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognisance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant-wife. It is the well settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of the process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding."

Taking into account all these factors cumulatively and the observations of Hon'ble Supreme Court, this Court has no hesitation to accept the petition qua present two petitioners namely Samriti Sekhri and her husband Pankaj Sekhri. Consequently, while accepting the petition, FIR No.82 dated 25.02.2012 registered under Sections 498-A, 406 & 120-B IPC at Police Station Civil Lines, Amritsar and all consequential proceedings arising therefrom are quashed qua petitioners No.2 & 3.

Anything said herein shall be confined to the merits of the case pleaded by the two petitioners and would not effect the trial qua other accused persons.

07.04.2015
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(Mahesh Grover)
Judge