

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

**Crl. Misc. No. M-32458 of 2013
Date of Decision: 09.02.2015.**

Jagdish Singh and anotherPetitioners

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Loveneet, Advocate for
Mr. R.S.Bains, Advocate
for the petitioners.

Mr. V.P.S.Sidhu, AAG, Punjab.

Mr. A.S.Khinda, Advocate
for respondent No. 2.

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SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of criminal complaint No. 624/1/2012 dated 11.11.2010 titled 'Parminder Kaur versus Kulwinder Singh and others' under Section 406, 498-A of the Indian Penal Code, 1860 ('IPC' for short) (Annexure P-1), and all the subsequent proceedings arising therefrom including the summoning order dated 2.2.2013 (Annexure P-3).

Learned counsel for the petitioners has submitted that petitioner No. 2 is residing in Canada since the year 1976. Petitioner No. 1 is the husband of petitioner No. 2 and left for Canada after marriage in the year 1998. Complainant got married to the brother of petitioner No. 2 on 2.3.2003. Since the petitioners are residing in Canada, they have no concern with the

matrimonial life of the complainant who is residing in India. Petitioners occasionally visit India. Vague allegations have been levelled against the petitioners in the complaint.

Learned counsel for respondent No. 2, on the other hand, has opposed the petition and has submitted that petitioners along with their co-accused have been harassing respondent No. 2 on account of insufficiency of dowry and have been demanding more dowry from the complainant.

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 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 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.

Admittedly, petitioners are residing in Canada.

Petitioner No. 2 is residing in Canada since the year 1976. Petitioner No. 1 had got married to petitioner No. 2 and he (petitioner No. 2) also left for Canada in the year 1998. Since the petitioners are residing in Canada, they cannot be said to have interfered in the marital life of the complainant. It appears that the petitioners have been involved in this case due to their relationship with the husband of the complainant. Even a perusal of the complaint Annexure P-1 reveals that vague allegations have been levelled against the petitioners. Petitioners occasionally visited India but in the complaint, no specific dates have been mentioned as to when the petitioners had harassed or given beatings to the complainant. In the facts and circumstances of the present case, continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. Criminal complaint No. 624/1/2012 dated 11.11.2010 titled 'Parminder Kaur versus Kulwinder Singh and others' under Section 406, 498-A IPC (Annexure P-1), and all the consequential proceedings, arising therefrom, including the summoning order dated 02.2.2013 (Annexure P-3), qua the petitioners, are quashed.

**(SABINA)
JUDGE**

February 09, 2015
Gurpreet