

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

**CRM No.M-30420 of 2014 (O&M)
Decided on : 24.04.2015**

Jaswinder Kaur & anr.

.... Petitioner(s)

Vs.

State of Punjab and anr.

.... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. Onkar Singh, Advocate
for the petitioners.

Mr. Deepak Garg, AAG, Punjab.

Mr. Ankur Mittal, 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.180 dated 18.06.2011 registered under Sections 406/498-A IPC at Police Station Zirakpur, District SAS Nagar and all consequent proceedings arising therefrom.

Petitioner No.1 – Jaswinder Kaur is sister-in-law of the complainant while petitioner No.2 – Devinder Pal @ Devinder Kumar is the husband of Jaswinder Kaur. Both have been arrayed as respondent Nos.5 & 6 in the case.

The dispute has arisen on account of marital discord.

It is contended that a bare reading of the FIR does not show any specific allegations against the petitioners. It is further stated that both of them have no role to play in marital affairs of the complainant and her husband, and petitioners are residing separately.

It is further contended that even if all the allegations are taken to be correct, no offence is said to have been made out against them.

Learned counsel for the respondent, on the other hand, opposed the said prayer and contend that there are specific allegations against the petitioners.

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

A perusal of the FIR, which though quite detailed, does not indicate any specific role attributed to the petitioners and as stated by learned counsel for the petitioners if all the allegations are taken to be correct, no offence is constituted against the petitioners. The FIR is just sheer abuse of process of law. The complainant has submitted a lengthy complaint without really pointing out the role of the petitioners.

The Court is also conscious of the fact that complainant in such like matters 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 facts cumulatively and the observations of Hon'ble Supreme Court, this Court has no hesitation to accept the petition qua present petitioners namely Jaswinder Kaur and her husband Devinder Pal. Consequently, while accepting the petition, FIR No.180 dated 18.06.2011 registered under Sections 406/498-A IPC at Police Station Zirakpur, District SAS Nagar and all consequential proceedings arising therefrom qua the petitioners are hereby quashed.

24.04.2015
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(Mahesh Grover)
Judge