

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

**CRM-M No.3175 of 2014 (O&M)
Decided on : 08.05.2015**

Charanjeet Singh

.... Petitioner(s)

Vs.

State of Haryana & anr.

.... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. Brijender Kaushik, Advocate
for the petitioner.

Mr. P.S.Chauhan, Addl. AG, Haryana with
Mr. Himmat Singh, AAG, Haryana.

Ms. G.K.Daulat, Advocate
for respondent No.2.

MAHESH GROVER, J.(Oral)

Reply filed on behalf of respondent No.2 in Court is taken
on record.

This is a petition under Section 482 Cr.P.C praying for
quashing of FIR No.29 dated 16.03.2013 registered under Sections
498-A, 406, 323, 504 & 34 IPC at Police Station Shahzadpur, Ambala
and all consequential proceedings arising therefrom.

The petitioner is brother-in-law (devar) of the complainant
and the backdrop of the dispute would indicate a marital discord.

A perusal of the FIR would reveal that the only allegation
against the petitioner is that he used to instigate the husband of the
complainant against her over the telephone. Beyond that there are no
specific allegations against the petitioner regarding meeting out any
cruelty to the complainant.

Learned counsel for respondent No.2 would contend that there are allegations, which are established during the course of the investigation and the petitioner is alleged to have given beating to the complainant.

A perusal of the relevant portion of the challan read out before the Court would reveal general allegations against the petitioner and number of other relations for giving beatings.

In the considered view of this Court, neither the FIR nor challan which has been read out by learned counsel for the complainant, establish the complicity of the petitioner in the commission of offence.

It has been stated by learned counsel for the complainant that charges have been framed and the petitioner 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 perusal of the FIR, it transpires that general allegations have been levelled against the petitioner without there being any specific material in this regard. The complainant has submitted a lengthy complaint without really pointing out the role of the petitioner.

The Court is also conscious of the fact that complainant in such like matters have 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. Consequently, while accepting the petition, FIR No.29 dated 16.03.2013 registered under Sections 498-A, 406, 323, 504 & 34 IPC at Police Station Shahzadpur, Ambala and all consequential proceedings arising therefrom qua the petitioner are quashed.

The present petition stands allowed.

08.05.2015
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(Mahesh Grover)
Judge