IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No. M-3784 of 2010
Date of decision:- August 03, 2015

Parminder Kaur

.....Petitioner..

Vs.

Union Territory, Chandigarh and another

....Respondents..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Davinder N. Grover, Mr. Ashish Choudhary, and Mr. Inderjeet Sharma, Advocates for the petitioner.

Mr. J.S. Toor, Advocate for UT Chandigarh.

Mr. P.S. Thiara, Advocate, for respondent No.2.

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1. Whether Reporters of local papers 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?

JASPAL SINGH, J.

Present petition has been preferred under Section 482 of the Code of Criminal Procedure (for short, 'Code') by Ms. Parminder Kaur, mother-in-law of complainant-respondent No.2-Jasleen Kaur, seeking quashing of FIR No. 327, dated August 27, 2007, under Sections 406/498-A IPC, Police Station Sector 39, Chandigarh and all subsequent proceedings arising therefrom.

2. Instant case stands registered on the basis of complaint lodged by Ms. Jasleen Kaur-respondent No.2 with Police. The relevant portion of the FIR may be usefully quoted as under:-

"To, The SSP, UT, Chandigarh. Sub:

Complaint against demand of dowry, cruelty and bigamy. Sir, (1) I, Jasleen Kaur w/o Ravneet Singh D/o Ranbir Singh Sodhi, presently resident of #1091/2 Sector 39-B, Chandigarh. On 12th December, 2004 got married to Ravneet Singh S/o Hardeep Singh resident of C-80 IInd Floor, Kalkaji, New Delhi (Last available address: 5313 HIGHLAND DRIVE S.E. AUBURN WASHINGTON 96092 USA Ph. 0012538048204. (2) That before marriage it as claimed by the bridegroom side that Ravneet Singh (husband of the complainant hereinafter referred to as respondent No.1) is a postgraduate and has a business with his brother-in-law Sh. Nirmohan Singh in the form of a partnership firm M/s ultimate Fashion Maker Ltd., Gurgaon. (3) That accordingly believing the words of his family to be true marriage was solemnized and approximately Rs.8 lacs were spent on marriage which continued for two days. List of dowry articles and demanded and received by the husband of the complainant and his family is annexed herewith as Annexure C-1. That be that as it may immediately after marriage, complainant realized that claims made by the respondent No.1 and his family were false. In order to shield his shortcomings and lies respondent No.1 started treating the complainant with cruelty. His family also adopted the same attitude towards complainant. That immediately after marriage complainant realized that respondent No.1 would not got to work and sit idle at home. On repeated persuasion, respondent No.1 would behave erratically and avoid the issue. It was a matter of a few days when complainant realized that respondent No.1 is employed. The entire story of a partnership firm in the name of M/s Ultimate Fashion Maker Ltd., Gurgaon was false. M/s Ultimate Fashion

Maker Ltd., Gurgaon was sole proprietorship firm owned by the brother-in-law of respondent No. 1 Sh. Nirmohan Singh that firm also running into loss. After marriage complainant realized that the respondent No.1 is almost an illiterate whereas he declared herself to be a post graduate. At one of the famous Indian restaurant in England, respondent No.1 could not answer manager's query and this made the complainant apprehensive that he is illiterate. Complainant asked the respondent No.1 in a calculative manner about her apprehension and instead of admitting his lies, false claim of being a postgraduate, he slapped the complainant in open and started abusing her. That Mr. Nirmohan Singh (respondent's brother-in-law) business was running into loss. Kiran Jeet Kaur (Nanan) hereinafter referred to as respondent No.2 pressurized complainant through respondent No.1 for financial help. Complainant refused to ask for money from her father on this complaint was not given proper food and she was not even allowed to enter the kitchen by complainant's sister-in-law who lives in the same locality would come every day to harass complainant. Respondent No.1 and his mother hereinafter referred to as respondent No.3 Smt. Parminder Kaur abused complainant and her family. After this incident complainant was not allowed to move out of the house and call any of her relatives or friends. Respondent's mother threatened of respondent's second marriage as a pressure tactics to extort money. Respondent No.2 is sister-in-law and respondent No.3 mother-in-law of the complainant would keep complainant locked in the room without food. On the eve of Guru Arjun Dev Martyrdom day, respondent No. 2 i.e. sister-in-law *forcibly burnt the complainant's hairs and when complainant cried for help in the kitchen, respondent No.3 made fun of the complainant. She said complainant should learn from great Guru Arjun Dev who did not say even a word before his esteem sacrifice. In the month of June, respondent No.1 left for America in a hush-hush manner. Two days prior to his departure he informed complainant about this development. The reason for sudden departure was explained as his aunt has some lucrative business offer. Respondent's aunt is settled in America. Respondent No.1 dropped petitioner at her parental house on a promise that he will come back and pick her up. Respondent No. 1 came back in the month of July 2004 but did not care to inform this fact to complainant. Complainant came to know about this fact from a common relative. On this, for the first time, complainant's sister accompanied her to the respondent No.1 formally lodged a protest with his family. Respondent No.1 and his family behaved in a very well humble manner and assured that everything is normal. After this incident, respondent No.1 snatched complainant's mobile and would not allow her to contact her family. Later on respondent No. 1 also cut of her mobile connection No. 9818719051 as a pressure tactics to extort money, respondent No.2 sister-in-law and respondent No.3, mother-in-law of the complainant would keep complainant locked up in the room without food and would call her parent's names. Complainant's father-in-law hereinafter referred to as respondent No.4 would pass unhealthy remarks. That on 05.08.2005 both complainant and respondent No.1 were travelling by car which was gifted by her father in marriage on a Gurgaon-Delhi road respondent No.1* *was driving the car and during the course of travelling he threatened the complainant to ask her father for some financial help for his family or he would sell the car. Complainant again showed her inability. On this, respondent not only yelled and said what if I ram this car into a truck and while saying he actually dodged a mini truck coming from opposite side. This made complainant faint. After the aforesaid incident respondent No.1 and his family smoothened up with complainant for a few days and respondent No.1 apologized for the incident. Thereafter, just to cover up the situation, respondent No.1 cropped up false story of setting up a new business in USA and told her that within a few day he will again go to USA for finalizing the deal. In the middle of August, 2005, he forcibly sent complainant to her parents at Chandigarh. After some days, respondent No.1 called up complainant for money but she refused to seek any help from her parents. On this, he got annoyed and abused her on telephone. On the next day, complainant's father called up respondent No.1 and asked that if he agrees to take complainant along with him, he can make some arrangements. Respondent No.1 agreed and applied for complainant's visitor's visa to prove that he will take complainant along with him and asked for security money. Complainant's father told him that it is likely to take some time and this annoyed respondent. American Embassy sent intimation for interview of the complainant at the respondent's address in Delhi. The interview was allegedly fixed for 16.10.2005. He did not inform complainant about her interview and (advised the complainant) was leaving for American alone on 15.10.2005. He did not inform complainant about her interview and was leaving for America alone on*

15.10.2005. Fortunately, a common relative informed and advised the complainant that she should be in Delhi without disclosing any reason. Complainant got suspicious and rushed to Delhi same day i.e. 15.10.2005 and was surprised to see that once again respondent No.1 was all set for his departure to America without informing her. His baggage was packed and was just leaving for the airport. Finding himself in a difficult situation, respondent No.1 started off with his lame excuses and postponed his visit. Complainant's parents took up this issue with the respondent's family. He was going through the services of Asian Airlines. However, with the intervention of the common relatives, it was decided that both would leave for America together. In front of all the relatives, respondent No.1 call up the travel agent and requested for postponement of the date of interview by a week or so. On the next day, respondent No.1 informed that interview was re-fixed for 28.11.2005. On 22.10.2005, respondent No.1 informed complainant that her date of interview has been postponed to 28.11.2005 and his travel agent has advised him that he should come for America immediately otherwise he have to face problems. Once again he cajoled the complainant to believe that in any case her interview is fixed for 28.11.2005 and after that she can also come to America. Ultimately, he left for America on 2nd November, 2005. Finally, complainant appeared for interview for 28.11.2005 to be informed that she cannot be allowed visa as her husband has left in a very peculiar manner with reasonable suspicion. If they had to go for a short visit, they could have gone together. Complainant consulted the travel agent and explained him the entire scenario. He felt *sorry for her and informed that she should have acted wisely. Respondent No.1 had cut of his mobile connection, closed down his bank accounts which clearly means that he has left India for all times. Complainant's family lodged protest with respondent's family about this incident and sought their clarification. Respondent's family specially the mother behave very badly and said now will never come back. That after enquiries from different quarters, it transpired that though earlier in the month of June, 2005, respondent No.1 had left for America on business visa but during his visit to America he has illegally contracted second marriage. Complainant tried to contact respondent No.1 many a times through various channels but he paid no heed. Ultimately, in the month of December 2005 around Christmas, complainant's father threatened respondent's family of police action. On this once again, respondent's family refuted the allegation of second marriage and claimed that respondent would be back within a few days. In all these days, respondent No.1 did not even call up complainant. Complainant requested her friend who is also settled in America to locate respondent. After lot of enquires, it has come out that respondent No.1 has re-married with one Karanjot Kaur who is an American citizen and they are presently living with respondent's aunt at 5313, HIGHLAND DRIVE, SE WASHINGTON 98092. Respondent No.1 is employed in a Departmental Store "Seven Eleven". When this fact was sought to be re-confirmed from respondent's family they denied it. After few days complainant received about 100 dollars through Western Union Money transfer. This step was nothing but proactive step by respondent No.1 to prove normalcy in the relationship and a step to create* *evidence against any apprehended action by the complainant. Till the filing of this complaint, respondent has not contacted or communicated with the complainant. That respondents No. 2-4 colluded with respondent No.1 and assisted in his second marriage. Complainant has been facing undue hardship and cruelty at the hands of respondent. Respondent No.1 is a greedy person and is interested only in money. All the dowry articles and stridhan of the complainant is lying with the respondents. That on 01.06.2007, complainant made a last effort to solve the matter amicably by calling respondent No.1 to Chandigarh through a relative but it had no effect on the respondents and the respondents flatly refused to arrive at amicable solution. The respondent also refused to return any dowry to the petitioner which was given to them at the time of marriage. In these circumstances, I would crave indulgence of your good-self into the matter and pray for appropriate action against the respondents."*

3. While reiterating the contents of FIR, it has been argued with vehemence by learned counsel for petitioner that allegations made in the FIR is just a reproduction of divorce petition, which has been registered just a day prior to the decree of divorce dated August 28, 2007. The allegations unfolded in the FIR or complaint, even, if taken at its face value and accepted in its entirety, do not prima facie constitute any offence or make out a case against petitioner. Even otherwise, FIR has been got registered with malafide intention, which is manifestly attended with malice and that too with an ulterior motive of wrecking vengeance on petitioner's family, just due to strained relation in between complainant and her husband. In the divorce

petition, husband of complainant appeared and filed written statement controverting all allegations and thereafter, he could not appear as he was living abroad. Moreover, after passing of decree of divorce, complainant has contracted second marriage and has been blessed with two children, which is conclusive of the fact that she is not ready to live with her husband and intended to settle with some other person.

4. It has been urged by learned counsel for petitioner that though FIR was registered against complainant's husband, father-in-law, mother-in-law as well as sister-in-law but during investigation of this case, father-in-law and sister-in-law of complainant have already been absolved of all charges, which leads to show that allegations levelled by complainant are not free from doubt. Husband of complainant is living abroad and has already been declared proclaimed offender. Moreover, petitioner as well as her husband have discontinued their relations and disowned their son-Ravneet Singh as well as his wife Jasleen Kaur-respondent No.2 (complainant) from the moveable and immovable property, when they realized that their son Ravneet Singh is rather extending help to his wife and is not paying any heed to their plight. As far as Santro car given by parents of respondent No.2, at the time of marriage, is concerned, it was taken away by complainant along with other belongings in the month of February 2006. Even, allegations made in the FIR are absolutely wrong and false. In the FIR, it has been mentioned that on June 01, 2007, she tried to save the marriage whereas divorce petition was filed by her on May 30, 2006. The

question of making any effort to save marriage with the son of petitioner on June 01, 2007 does not arise when she has already filed divorce petition on May 30, 2006. Similarly, allegations that her sister-in-law and mother-in-law kept complainant locked in a room without food and tried to set her ablaze on the eve of Guru Arjun Dev Martyrdom Day also stands falsified from the fact that sister-in-law was not in India, at that time, even as per inquiries conducted by police. In fact, there was bickering in between complainant and her husband as she could not go abroad. Just to harass and humiliate petitioner and her family members, a false FIR was registered, which is likely to be quashed.

5. On the other hand, learned State counsel as well as learned counsel appearing on behalf of complainant-respondent No.2 while controverting various submissions made by learned counsel for petitioner have contended that instant petition is without any merits and deserves to be dismissed for the simple reason that contents of FIR do not disclose cognizable offence. The mere fact that father-in-law and sister-in-law of complainant have been declared innocent during investigation of this case, does not ipso facto means that allegations qua petitioner are also false. Petitioner along with her son Ravneet Singh subjected complainant with cruelty immediately after the marriage on the ground that she has not brought sufficient dowry and also raised a demand of Rs.5 lakhs. There is also nothing on the record to suggest that FIR has been lodged by complainant with an ulterior motive or malice. Rather, she has unfolded sequences of events, which she had been faced during the period, she remained

with the family of petitioner or subsequent thereto. In fact, husband of complainant was unemployed, though, it was claimed that he is a post-graduate and has a business with his brother-in-law Sh. Nirmohan Singh in the form of partnership firm M/s Ultimate Fashion Maker Ltd., Gurgaon. Seeking of divorce by complainant-respondent No.2 or contracting second marriage, does not preclude complainant to redress her grievances by lodging FIR. Learned counsel for respondents accordingly prayed for dismissal of petition.

6. This Court has bestowed due consideration to rival submissions made by learned counsel for parties besides meticulously going through contents of FIR or complaint as well as other documents available on record.

7. Undisputably, marriage of complainant was solemnized with Ravneet Singh son of petitioner way back in the month of December 2004 at Gurgaon and after marriage they both visited Germany and England and at that time, they were staying with petitioner but due to financial crunch and loss in business, husband of complainant rendered jobless and bickering in between husband and wife was started, which ultimately, led to their divorce. This also proved on record that complainant preferred a petition under Section 13-A of the Hindu Marriage Act, 1955 seeking decree of divorce on May 30, 2006, which was accepted and decree of divorce was passed on August 28, 2007. But a day prior to disposal of aforesaid divorce petition, instant FIR was registered. A glance at the divorce petition (Annexure P-5) as well as FIR (Annexure P-4) reveals that FIR is just a reproduction of divorce petition with some minor

changes and allegations with regard to attempt to set complainant ablaze and locking her up in the room without food are missing in the divorce petition. Meaning thereby, that there was no such incident and has been incorporated in the FIR or complaint just to make out a case of cruelty.

8. It is also not in dispute that after obtaining decree of divorce, complainant has contracted second marriage and two children have born out of the said wedlock. Complainant is living with her second husband and children peacefully. But before obtaining decree of divorce, instant case was lodged, just to cause harassment and humiliation to petitioner and her family members. Allegations against father-in-law that he used to pass unhealthy remarks have already been found to be false during investigation. Similarly, allegations, which are levelled against her sister-in-law by complainant were also found false. Similarly, seeing the conduct of complainant as well as her husband, they both were disowned by petitioner as well as her husband from moveable and immovable property and discontinued their relations by making publication in the newspaper dated May 15, 2006. So, after the said date, petitioner and her husband had nothing to do either with complainant or her husband. Moreover, question of making any effort to save marriage by complainant by visiting house of petitioner on June 01, 2007 also stands falsified as husband of complainant was not in India whereas petitioner had already discontinued her relation with her son as well as complainant much prior to it. This plea in the FIR appears to have been taken by complainant just to cover up the delay in lodging the

FIR. Moreover, making of any such effort is also not possible when a divorce petition was already pending on its penultimate stage, which was finally disposed of on March 28, 2007. Moreover, it is a matter of common knowledge that unfortunately matrimonial litigations are rapidly increasing day-by-day. Large number of cases are pending in various courts and it is also commonly experienced that most of such like complaints under Sections 406/498/A IPC are lodged over petty issues without proper deliberations and just in the heat of moment, which are otherwise not bonafide and just to settle scores.

9. Before delving deep into the allegations levelled in the complaint/FIR, it would be desirable to highlight the scope and jurisdiction of this Court to quash the FIR while exercising inherent powers envisaged under Section 482 Cr.P.C. The matter in this regard came up for hearing before Hon'ble Apex Court in case of "***State of Haryana and others vs. Bhajan Lal and others", 1991 (1) RCR (Crl.) 383, 1992 Supp (1) SCC 335*** and the Hon'ble Apex Court categorized the cases wherein extra-ordinary power under Article 226 of the Constitution of India or inherent power under Section 482 Cr.P.C. can be exercised by the Court either to prevent abuse of the process of Court or otherwise to secure the ends of justice. In a judgment reported as ***2008 (4) RCR (Crl.) 171***, ***Bhajan Lal's case (supra)*** was relied upon in para No. 21, wherein the Hon'ble Apex Court has held as under:-

> *"21. In State of Haryana and others v. Bhajan Lal and others, 1991 (1) RCR (Criminal) 383: 1992 Supp. (1) SCC 335, this court in the backdrop if interpretation*

of various relevant provisions of the Cr.P.C. under Chapter XIV and of the principles of law enunciated by this court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 Cr.P.C. gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this Court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formula and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:-

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 un-controverted 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 private and personal grudge."*

10. A glance at the aforesaid judgment transpires that allegations made in the FIR, if taken at their face value and accepted in their entirety, do not prima facie constitute any offence or that allegation made in the FIR was absurd, inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against petitioner.

11. Now, in the light of aforesaid observation, it is to be seen

whether there exists sufficient grounds for quashing FIR in question and subsequent proceedings emanating therefrom.

12. This Court is of the considered view that no cognizable offence either under Sections 406/498-A is made out from the allegations in the FIR. Rather, it can be said that FIR is manifestly attended with malafides and actuated with ulterior motive. Prosecution of petitioner is not legitimate. Rather, it would be frivolous, vexatious, unwarranted and abuse of process.

13. In the light of what has been discussed above, instant petition stands allowed and FIR No. 327, dated August 27, 2007, under Sections 406/498-A IPC, Police Station Sector 39, Chandigarh as well as all subsequent proceedings emanating therefrom are quashed qua petitioner.

(JASPAL SINGH)
JUDGE

August 03, 2015
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