

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.4494 of 2012 (O&M)
Date of Decision : 25.08.2015

Veena Rani

.....Petitioner

Versus

State of Punjab & another

.....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether reporters of local newspaper may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the digest?

Present : Mr. Mohd. Yusuf, Advocate
for the petitioner.

Mr. J.S. Brar, AAG, Punjab.

Mr. Akshay Jain, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

This is a petition under Section 482 Cr.P.C. seeking quashing of criminal case got registered on the complaint of Parushottam Dass by way of FIR No.77 dated 13.12.2015 under Section 452, 323, 427, 34 IPC registered at Police Station, Bareta, District Mansa (Annexure P4) along with subsequent proceedings arising out of it.

Heard Mr. Mohd. Yusuf, Advocate for the petitioner, Mr. J.S. Brar, AAG, Punjab for the State with Mr. Akshay Jain, Advocate for respondent No.2 and perused the records of the case.

The brief facts that led to the instant dispute are that Veena Rani present petitioner had married one of the accused-Ishwar Chander son of the complainant on 23.11.2011 and on account of household discord a complaint was filed by the present petitioner-Veena Rani under the Protection of Women from Domestic Violence Act, 2005 along with other provisions by way of Annexure P2. The petitioner-wife also filed an application under Section 125 Cr.P.C. for maintenance (Annexure P3). It is alleged by the present complainant father-in-law that on 12.12.2011 around 1.05 PM, accused comprising of the present petitioner along with Mithu Singh, Shashi Bala and Gursewak Singh relatives of the petitioner trespassed into the house of the complainant and demolished a wall and also caused simple hurt to one Kirna Rani.

The main ground of attack in this petition is that it was a counter-blast to the case lodged by the petitioner earlier against the in-laws and the husband and is a pure misuse of the process of the Court, which is controverted on behalf of the respondent-complainant and the State. It needs to be highlighted that the Court of learned Judicial Magistrate, 1st Class, Budhlada vide order dated 15.06.2013 finding prima facie case framed charges against the accused and the matter has been adjourned for evidence of the prosecution. The Hon'ble Apex Court has laid to settle the position of law in the exercise of powers under Section 482 Cr.P.C. necessitating quashment of such proceedings by way of pronouncement made in the case of "*State of Haryana and*

others Vs.Ch. Bhajan Lal and others, 1992 AIR 604" spelling out the eventualities which though are only illustrative and not exhaustive, wherein it has been provided that in cases allegations made in the FIR, if taken at the face value do not prima facie constitute any offence against the accused or that the prima facie allegations of the FIR do not disclose a cognizable offence justifying investigations by the Police and that even if the uncontroverted allegations do not constitute any offence or that there is manifestation that the proceedings were mala fide and have been maliciously instituted with an ulterior motive for wreaking vengeance, then only there is a need to exercise powers under Section 482 of the Cr.P.C.

To the very query of the Court, learned counsel for the petitioner could not answer satisfactorily, how the present petition qualifies these tests when the evidence collected during the investigations placed on the challan/report under Section 173 Cr.P.C., the taking into custody of the vehicle used in the commission of the alleged offences and the statements of the witnesses does not augur well for the petitioner. Merely, because the parties have a history of previous litigation over matrimony and it cannot be assumed and presumed that the present case is a false mischievously motivated one as a counterblast when the Police have sufficiently investigated the allegations and have submitted the report under Section 173 Cr.P.C. against the accused who have also been chargesheeted by the learned

trial Court are matters which sway the opinion of the Court against the petitioner. The Courts ought to be slow and must circumspect before exercising the powers under Section 482 Cr.P.C. which is a rarity only to be exercised in exceptional cases where ends of justice demand.

Apparently, nothing meets the eye in the present case to qualify it for quashment. The petition being hopelessly without merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

August 25, 2015

Dpr