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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 20.03.2015

Jaideep Sehrawat and others

.... Petitioner(s)

Versus

State of Haryana and another

.... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Mr. Mohit Kumar, Advocate,
for the petitioners.

PARAMJEET SINGH, J.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.07 dated 09.01.2015, registered at Police Station Urban Estate, Rohtak, under Sections 498-A and 406 of the Indian Penal Code.

Brief facts of the case are to the effect that respondent no.2 was married with petitioner no.1 as per Hindu rites and customs. Respondent no.2 got registered the aforesaid FIR alleging that the petitioners harassed her with demand of dowry amounting to cruelty. In the FIR, it is alleged that the petitioners demanded Fortuner Car and

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₹ 10 lacs as dowry.

I have heard learned counsel for the petitioners and perused the record.

Learned counsel for the petitioners vehemently contended that there are no specific allegations against the petitioners. The reading of FIR makes it clear that no offence is made out against the petitioners. In support of his contentions, learned counsel relied upon judgment of the Hon'ble Apex Court in Appeal (Crl.) No.1392 of 2007, titled '**Inder Mohan Goswami & Another vs. State of Uttranchal & Others**', decided on 09.10.2007, **State of Haryana and others vs. Ch. Bhajan Lal and Ors.** AIR 1992 SC 604, judgment of this Court in CRM-M-8480 of 2010, titled '**Harjit Singh and another vs. The State of Punjab and another**', decided on 07.09.2012, **Krishan Lal And Ors. Vs. State of Haryana And Anr.** II(1990) DMC 344 and judgment of Hon'ble Delhi High Court in Crl. M.C. No.799 of 2009, titled '**Sudhir Kapur and Ors. vs. State & Anr.**', decided on 10.08.2010.

I have considered the rival contentions of learned counsel for the petitioner.

In Crl. Appeal No.456 of 2015, titled '**Taramani Parakh vs. State of M.P. & Ors.**', decided on 16.03.2015, the Hon'ble Supreme Court has held as under:

“11. Law relating to quashing is well settled. If the allegations are absurd or do not make out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case

*the Court does not go into reliability or otherwise of the version or the counter version. In matrimonial cases, the Courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple. We may refer to the decisions of this Court dealing with the issue. Referring to earlier decisions, in **Amit Kapoor vs. Ramesh Chander and Anr. (2012) 8 SCC 460**, it was observed:*

“27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

27.6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

27.7. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

27.8. Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a “civil wrong” with no “element of criminality” and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to

determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.10. *It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.*

27.11. *Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.*

27.12. *In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.*

27.13. *Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.*

27.14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae i.e. to do real and substantial justice for administration of which alone, the courts exist.

(Ref. State of W.B. v. Swapan Kumar Guha [(1982) 1 SCC 561 : 1982 SCC (Cri) 283 : AIR 1982 SC 949]; Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234]; Janata Dal v. H.S. Chowdhary [(1992) 4 SCC 305 : 1993 SCC (Cri) 36 : AIR 1993 SC 892]; Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059]; G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513]; Ajay Mitra v. State of M.P. [(2003) 3 SCC 11 : 2003 SCC (Cri) 703]; Pepsi Foods Ltd. v. Special Judicial Magistrate [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400 : AIR 1998 SC 128]; State of U.P. v. O.P. Sharma [(1996) 7 SCC 705 : 1996 SCC (Cri) 497]; Ganesh Narayan Hegde v. S. Bangarappa [(1995) 4 SCC 41 : 1995 SCC (Cri) 634]; Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283]; Medchl

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Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615 : AIR 2000 SC 1869]; Shakson Belthissor v. State of Kerala [(2009) 14 SCC 466 : (2010) 1 SCC (Cri) 1412]; V.V.S. Rama Sharma v. State of U.P. [(2009) 7 SCC 234 : (2009) 3 SCC (Cri) 356]; Chunduru Siva Ram Krishna v. Peddi Ravindra Babu [(2009) 11 SCC 203 : (2009) 3 SCC (Cri) 1297]; Sheonandan Paswan v. State of Bihar [(1987) 1 SCC 288 : 1987 SCC (Cri) 82]; State of Bihar v. P.P. Sharma [1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192 : AIR 1991 SC 1260]; Lalmuni Devi v. State of Bihar [(2001) 2 SCC 17 : 2001 SCC (Cri) 275]; M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19]; Savita v. State of Rajasthan [(2005) 12 SCC 338 : (2006) 1 SCC (Cri) 571] and S.M. Datta v. State of Gujarat [(2001) 7 SCC 659 : 2001 SCC (Cri) 1361 : 2001 SCC (L&S) 1201]).

27.16. *These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of*

the offence.”

*12. In **Kailash Chandra Agrawal & Anr.** vs. **State of U.P. & Ors.** (Criminal Appeal No.2055 of 2014 decided on 6.9.2014), it was observed:*

*“9. We have gone through the FIR and the criminal complaint. In the FIR, the appellants have not been named and in the criminal complaint they have been named without attributing any specific role to them. The relationship of the appellants with the husband of the complainant is distant. In **Kans Raj vs. State of Punjab & Ors.** [(2000) 5 SCC 207], it was observed:-*

“5.....A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant

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relations. Mere naming of distant relations is not enough to summon them in absence of any specific role and material to support such role.

10. The parameters for quashing proceedings in a criminal complaint are well known. If there are triable issues, the Court is not expected to go into the veracity of the rival versions but where on the face of it, the criminal proceedings are abuse of Court's process, quashing jurisdiction can be exercised. Reference may be made to K. Ramakrishna and Ors. vs. State of Bihar and Anr. [(2000) 8 SCC 547], Pepsi Foods Ltd. and Anr. vs. Special Judicial Magistrate and Ors. [(1998) 5 SCC 749], State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors. [(1992) Suppl 1 SCC 335] and Asmathunnisa vs. State of A.P. represented by the Public Prosecutor, High Court of A.P., Hyderabad and Anr. [(2011) 11 SCC 259].

In the present case, the FIR has been registered on 09.01.2015.

There are specific allegations in the FIR that petitioner no.1 (husband), petitioner no.2 (father-in-law), petitioner no.3 (mother-in-law), petitioner no.4 (brother-in-law) and petitioner no.5 (sister-in-law) had demanded Fortuner Car and ₹ 10 lacs as dowry amounting to cruelty. Be that as it may, the case is at the initial stage of investigation. Registration of the FIR is just to set the law in motion and every minute detail is not required to be mentioned in the FIR. The question whether respondent no.2 has in fact been harassed and treated with cruelty is a matter of investigation and trial, but at this stage, it cannot be said that

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no case is made out. The petition appears to be pre-mature. The case laws relied upon by learned counsel for the petitioner are distinguishable to the facts and circumstances of the present case, rather the judgment of the Hon'ble Supreme Court in *Taramani Parakh's* case (supra) is applicable to the present case.

In view of above, the instant petition is dismissed being pre-mature.

20.03.2015
parveen kumar

(PARAMJEET SINGH)
JUDGE