

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

**Crl. Misc. No.M-18386 of 2013 (O&M)  
Date of decision : 31.05.2016**

**Shakuntla and others**

**.....Petitioner(s)**

**Versus**

**State of Haryana and another**

**...Respondent(s)**

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. S.K. Yadav, Advocate  
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. J.P. Sharma, Advocate  
for respondent no.2.

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**ANITA CHAUDHRY, J.**

1. This petition has been filed by the sister, the sister's husband and Devanand @ Billu, husband of another sister. They are seeking quashing of the FIR. A matrimonial dispute between Shiv Kumar and his wife Rajnesh @ Rajni had given rise to a criminal case against Shiv Kumar and his close relatives, resulting in FIR No.250 dated 09.07.2012, registered at Police Station Mahendergarh under Sections 498-A, 323, 406, 506, 34 IPC.

2. At the initial stages efforts for reconciliation were made and the matter was sent for mediation but the talks had failed.

3. Previous cost ordered to be paid to the complainant has been paid today.

4. It is necessary to refer to the allegations made in the FIR (Annexure P-1). Balbir, father of Rajnesh lodged a complaint disclosing that his daughter was married to Shiv Kumar on 25.04.2012. The girl was thrown out of the matrimonial home within one and a half month of the marriage i.e. on 03.06.2012. The allegations were that when Rajnesh went to the in-law's house then accused persons taunted her as they had not given the motorcycle and Rs.1 lac on the Vidai ceremony and they had been insulted before the village. Accusations were made that Shiv Kumar was a drunkard and did not work and used to beat his daughter. The daughter was sent back to her parent's house to get the motorcycle and the amount. The complainant pleaded before the in-laws that he was poor and was unable to fulfill the demand. Rajnesh was sent back to the matrimonial home on which date the present petitioners were also present in the house. They asked her to arrange the amount and a motorcycle, failing which she would be killed and thrown out. They also declared that they had relatives who were in government service. The allegations further are that daughter was not given any food and she was threatened that they would set her on fire. The girl was thrown out of the house on 03.06.2012.

5. The police investigated the case and filed the challan against the husband and also against the present petitioners.

6. The petitioners claim that general and vague allegations have been levelled against them and they were not residing in the same house and had been married for over 25 years and had grown up children who were of marriageable age and they had been wrongly named so as to widen the net.

Reliance was placed upon *Divya @ Babli and others Vs. State of Haryana and another 2006(4) RCR (Crl.) 322, Ramesh Vs. State of Tammil Nadu,*

***2005(3) SCC 507, Geeta Mehrotra & Anr. Vs. State of U.P. & Anr. D.O.D. 17.10.2012 and Preeti Gupta and another Vs. State of Jharkhand and another 2007(7) SCC 667.***

7. On the other hand, the complainant side had claimed that had the intention been to name the entire family, they would have named the father in law and the other Nanad and their exclusion shows their bonafide.

8. From the facts that emerge, it is not disputed that the petitioners are not living in the same house and they are residing in a different district of Haryana and they have been married for over 25 years old. The girl had remained in the matrimonial home from 25.04.2012 up to 03.06.2012. During this period she had visited her parent's once. There are no specific allegations against any of the petitioners.

9. The main question that would fall for consideration is whether the inherent powers under Section 482 Cr.P.C. can be invoked in the facts and circumstances of this case.

10. The Apex Court in a number of cases has laid down the scope and ambit of Courts' powers under [Section 482](#) Cr.P.C. Every High Court has inherent power to act *ex debito justitiae* to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under [section 482](#) Cr.P.C. can be exercised:

- (i) to give effect to an order under [the Code](#);
- (ii) to prevent abuse of the process of court, and
- (iii) to otherwise secure the ends of justice.

11. The powers possessed by the High Court under [section 482](#) of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in

exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution but Court's failing to use the power for advancement of justice can also lead to grave injustice.

12. The Apex Court had occasion to examine the legal position in a large number of cases. *In R.P. Kapur v. State of Punjab AIR 1960 SC 866*, this court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings:

- (i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;
- (ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;
- (iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

13. *In State of Haryana & Others v. Bhajan Lal & Others* 1992 Supp. (1) SCC 335, the Apex Court in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure (for short, Cr.P.C.) under Chapter XIV and of the principles of law enunciated by it 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.

"(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."

14. The Apex Court in *[Inder Mohan Goswami and Another v. State of Uttaranchal & Others](#)* (2007) 12 SCC 1 comprehensively examined the legal position. The Court came to a definite conclusion and the relevant observations of the court are reproduced in para 24 of the said judgment as under:-

"Inherent powers under [section 482](#) Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute."

15. I have considered the averments of the complaint and the contents of the FIR. It is not disputed that the petitioners are permanent residents of another district. They had been married for over 25 years. They had never lived with the complainant. Their implication in the complaint appears to be to harass and humiliate the husband's relatives and that is only reason to name them and permitting the complainant to pursue the case against them would be an abuse of the process of law.

The petition is allowed and FIR No.250 dated 09.07.2012, registered at Police Station Mahendergarh under Sections 498-A, 323, 406, 506, 34 IPC is quashed qua the petitioners .

31.05.2016

Sunil

**(ANITA CHAUDHRY)**  
**JUDGE**