

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-23255 of 2015

Ravinder Kaur

... Petitioner

versus

State of Punjab and another

... Respondents

Crl. Misc. No. M-18114 of 2016

Paramjit Singh

... Petitioner

versus

State of Punjab and another

... Respondents

Date of decision : 15.07.2016

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Mansur Ali, Advocate
for the petitioner(s)

ANITA CHAUDHRY, J. (ORAL)

Two separate petitions have been filed seeking quashing of FIR No. 29 dated 28.03.2015 registered under Sections 406, 498-A, 304-B, 120-B IPC at Police Station Women Cell, District Ludhiana.

The facts as they appear from the record are that the son of the petitioners was married to Gurpreet Kaur on 14.03.2010. A son was born out of the wedlock. Gurpreet Kaur died on 25.02.2015. A complaint was lodged by Gurpreet Kaur's uncle. The petitioners claim that they had approached this Court and had filed CRM-M-10054 of 2015 titled as Jaspal Singh and others vs. State of Punjab and others wherein notice of motion had been issued and the petition was thereafter decided. The police had registered the FIR on 28.03.2015. The petitioners alleged that there was no demand of dowry and the petitioners and their son spent money on the treatment of their daughter-in-law. It was pleaded that the hospital had conducted a Swine Flu Test and the same was negative. It was pleaded that parents

of Gurpreet Kaur were present at the time of cremation and had they suspected anything they would have insisted for a postmortem and Gurpreet Kaur had died on account of Pulmonary T.B. and Coronary Artery Disease. The petitioners had pleaded that they had applied for anticipatory bail which was allowed and since it was not an unnatural death, the FIR should be quashed.

Learned counsel for the petitioners contends that they had placed on record the bills of 2011 which would show that Gurpreet Kaur was under treatment and there was no complaint and no postmortem was conducted and the death was on account of Tuberculosis and the continuation of the proceedings would be an abuse of the process of law. It was urged that the FIR was not lodged by the parents but by person who says that he was a relative.

Perusal of the FIR shows that the FIR was lodged by Kulwant Singh. He had mentioned that Gurpreet Kaur was his niece and was married to Jaspreet Singh. Allegations were levelled that accused were maltreating his niece as she had brought insufficient dowry and they used to quarrel over petty issues and humiliated her before the relatives. There are allegations that there was demand of Rs. 4 lacs for expanding the business and that amount was paid. Allegations were also levelled that the death had occurred on account of pre-planned conspiracy and the accused did not provide medicines and her condition aggravated and she had been killed.

Admittedly challan has been presented. A question would arise whether based on the facts canvassed by the petitioners veracity of their claim can be tested in a petition filed under Section 482 Cr.P.C? The next question would be whether the material (medical bills) relied upon by the petitioners are indubitable? Whether the material available on record is sufficient to reject and over rule the factual assertions and whether proceeding with the trial would result in an abuse of the process of the Court?

The police has investigated the matter and has already filed the challan. Quashing the charge-sheet even before cognizance is taken amounts to killing the case at the very beginning. There are no allegations of malafide or malice. Material has been collected and statements have been recorded and the police has already filed the challan. It can not be said at this stage that there is no substance in the allegations. The documents referred to by the petitioner can not be said to indubitable. The case has to be examined by the trial Court. The case does not fall under any of the parameters laid down in *State of Haryana and others Vs. Ch. Bhajan Lal and others, AIR 1992 SC 604*. The inherent powers under Section 482 Cr.P.C. can not be exercised in the present case. While exercising jurisdiction under Section 482 Cr.P.C. the High Court does not embark upon an enquiry whether the material produced by the petitioners is reliable or otherwise or whether on a reasonable appreciation of it, the accusation would not be sustained. That is the function of the trial Court. No ground for quashing the FIR is made out.

Both the petitions are dismissed.

It is made clear that whatever has been stated above are only prima facie assertions which would not bind the trial Court while deciding the case.

July 15, 2016

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**(ANITA CHAUDHARY)
JUDGE**