

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-29213 of 2014

Date of Decision: 19.10.2016

Simranjit Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jaideep Verma, Advocate
for the petitioner.

Mr. Deep Singh, AAG, Punjab.

Mr. A.S.Syan, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J(ORAL)

This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 107 dated 18.11.2013 registered under Sections 406, 498-A, 34 and 328 IPC, Police Station Dugri, District Ludhiaina (Annexure P-7) and all the consequent proceedings arising out of the same, on the basis of written compromise arrived at between the parties.

Petitioner is the unmarried sister-in-law of respondent No. 2. She is a student of M.Tech and was studying in Sant Longowal Institute. Her elder brother Mohan Preet was married to respondent No. 2 in November 2011. Disputes arose and a complaint was given to the police and the FIR was registered against the petitioner, her brother and the parents.

Parminderjit Kaur in her complaint had referred to an incident on 9.11.2013. She had alleged that she had given breakfast to her husband

in the morning but he refused to take it and went out after slapping her. The complainant had alleged that her husband, sister-in-law and father-in-law left for Moga as her sister-in-law had an examination and all of them returned at 2.00 P.M. and when she had offered water to them, her mother-in-law rebuked as to why she had given water and thereafter her husband slapped her. The complainant went weeping into her room. She had further alleged that the mother-in-law asked her if she had taken her B.P. medicine and she said that it was bitter and she had not taken it. Upon which her husband caught hold of her arms, her sister-in-law held her by the hair while the mother-in-law forcibly put the medicine in her mouth and thereafter she went to sleep and all of them went out of the room and she did not know what happened. She had also added that when the medicine was administered, her father-in-law had held her legs. Allegations of harassment and demand of dowry were also made. She had also stated that she was taking the treatment of depression and her father had given Rs. 5.00 lacs at the time of birth of her daughter.

The police investigated the case and had filed the challan against all the persons who were named. The Co-ordinate Bench had stayed further proceedings on 1.9.2014 to enable the parties to sit together and settle the dispute. The interim continued till February 2015. Thereafter charge had been framed and evidence has started.

Counsel for the petitioner contends that the petitioner is the unmarried sister-in-law of respondent No. 2 and she was a student and was living in the hostel which was 150 kilometers away from her home. It was alleged that the incident was stated to have taken place on 9.11.2013 but the report was given to the police on 18.11.2013 and a new story had been

added that phenol was forcibly given to the complainant. It was urged that the history given in the hospital is different and the only accusations were against the mother-in-law but thereafter she had changed her statement after a week and has involved the rest of the family.

The submissions on behalf of respondent No. 2 are that challan has been presented and charge and been framed and trial has commenced and the documents appended along with the challan will have to be proved at the trial. It was urged that accusations have been made against the petitioner as well. Counsel for the complainant has submitted that the complainant was taken to a hospital which was known to the father-in-law and, therefore, the complainant was shifted out the same evening and taken to Deep Hospital, Ludhiana.

Before proceeding further it is necessary to notice the principles laid down in **State of Haryana vs. Bhajan Lal, 1992 Supp(1) Supreme Court Cases 335** which read as under:-

“The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482, Cr.P.C. can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently chennelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

(1) Where the allegations made in the first information report or the complainant/respondent No.2, 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 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 specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings 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.”

The petitioner is the unmarried sister-in-law of respondent No. 2. She was a student and was studying in Sant Longowal Institute which is in district Sangrur. Her family lives in Ludhiana. The petitioner side had stated that the distance between the college and their house is about 150 kilometers and it takes almost three hours. The petitioner had placed on record documents to show that the petitioner was studying in 2013 and on 9.11.2013 she had an examination at 9.00 A.M. The incident occurred the same afternoon. The complainant was taken to the hospital by her father-in-law and the complainant's *phupha* (uncle) and this fact is not disputed. The medical officer had sent intimation to the police officer and the police had arrived in the hospital. The doctor had made a statement that she was fit to make the statement at 8.30 P.M. but no statement was recorded. There is an addition and the word “not” has been added subsequently which is clearly visible from the vernacular. No statement was given by the complainant that day. The father got her discharged. No sample was sent for testing. This fact was also recorded that no sample was sent by the doctors of Preet Hospital and the reasons given therein are that the relatives had taken her

away. The father took her to Deep Hospital, Ludhiana where the history given is “the patient had swallowed some liquid (? phenol concentrate) following a domestic dispute/altercation with her in-laws at about 3.30 P.M.” The last three lines of the report state that according to the patient she was given the fluid/liquid allegedly and forcibly by her mother-in-law.

The police investigated the case and filed the challan against all the persons who were named. The Additional Deputy Commissioner had conducted an enquiry and noted the facts. It is recorded in the hospital records that it was the mother-in-law who had put some poisonous substance and tried to kill her. It was noted that there was no internal injury upon the body.

The only accusation against the petitioner is that she held from the hair (respondent No. 2) while the others caught hold of her legs and arms when the mother-in-law put the medicine in her mouth. There is no reference to the fact that phenol was given to her. In the complaint lodged after nine days, the complainant had mentioned that her mother-in-law had asked her if she had taken her B.P. Medicine and she had responded that it was bitter and all of them put medicine in her mouth. In the hospital records there is no reference to the tablet, instead there is a reference to phenol which is in liquid form.

It is now to be seen as to whether the inherent power under Section 482 Cr.P.C. should be exercised on these given facts. It is a matter of common knowledge and unfortunate that matrimonial litigations are rapidly increasing and the Courts are flooded with matrimonial cases and it clearly demonstrates discontent and unrest in the family life of a large number of people of our society. The tendency has also increased to name

all the relatives of the husband just to settle scores.

The view taken by this Court finds support from the judgment of the Hon'ble Supreme Court in ***Kans Raj versus State of Punjab and others, 2002 (20) RCR (Criminal) 695***. The relevant part of the judgment, reads as under:-

“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.”

In the given fact situation of the present case, in the opinion of this Court, it would be covered by more than one principles laid down by the Hon'ble Supreme Court, for quashing of the criminal prosecution, in its judgment in *State of Haryana versus Bhajan Lal and others's case (supra)*. It is a fit case where exercise of the inherent power should be allowed.

The petition is allowed and the aforesaid FIR and all consequent proceedings conducted on the basis thereof are quashed qua the petitioner.

**(ANITA CHAUDHRY)
JUDGE**

October 19, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No