

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

**CRM-M No.36974 of 2010**

Date of decision: 28<sup>th</sup> July, 2016

Deepak Kumar @ Dipi and another

... Petitioners

Versus

Baldev Raj

... Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Bikramjit Arora, Advocate  
for the petitioners.

None for the respondent.

**FATEH DEEP SINGH, J**

This is a petition preferred under Section 482 Cr.P.C. by petitioner brothers Deepak Kumar @ Dipi and Dheeraj Kumar @ Sonu seeking quashment of criminal complaint lodged by respondent Baldev Raj (Annexure P8) leading to summoning orders (Annexure P9) dated 17.03.2010 against them. The brief facts are that marriage of Pooja sister of the petitioners was solemnized with Neeraj Sharma son of the respondent complainant Baldev Raj on 04.12.2005. It was during the course of events a matrimonial dispute arose between the wife and the husband and thereafter on the complaint of the wife FIR No.207 dated

18.10.2007 (Annexure P1) under Sections 498A etc IPC was registered with Police Station Islamabad against husband and his family. It was subsequently thereto a compromise was effected between the two sides on 09.02.2008 (Annexure P2). As a sequel to this compromise in which complainant Baldev Raj father of the boy was a signatory and on the basis of the compromise a petition under Section 13B of the Hindu Marriage Act was preferred by the couple (Annexure P3) and on the basis of the same statements of the husband and wife (Annexure P4) were recorded leading to passing of the judgment of divorce dated 27.09.2008 (Annexure P6). It is by virtue of all this the parties jointly filed a petition for quashment of the FIR lodged at the behest of the wife and consequent thereupon order dated 22.10.2008 (Annexure P7) were passed and the FIR was got quashed. It is as is contended subsequently thereto in March 2008 Baldev Raj father of the husband filed a complaint against the family of the girl (Annexure P8) and as a consequence of the same vide orders dated 17.03.2010 (Annexure P9) the accused comprising of Gurbax Rani alias Sunita, Mohinder Kaur, Harbans Lal, Happy, Sudesh Kumari, Deepak alias Dipi and Sonu alias Dheeraj were summoned under Section 364 IPC by the Court of Judicial Magistrate 1st Class, Amritsar. It is the very complaint and the summoning orders the petitioner brothers of Pooja have sought quashment on the grounds of being misuse of the process of the Court

with an oblique motive to take revenge and for the return of ₹3.00 lacs earlier paid as settlement compensation to the wife.

Though initially on behalf of the respondent his counsel Mr.S.S. Majithia, Advocate has appeared but subsequently none appeared.

Heard Mr. Bikramjit Arora, Advocate for the petitioners.

Appreciating the submissions as well as the records. Undisputedly on account of matrimonial dispute a criminal case was got lodged by the wife and after anticipatory bail of the accused in that case was allowed the parties have effected a compromise whereby a sum of ₹3.00 lacs was paid as compensation thereby further leading to passing of divorce decree through mutual consent and the proceedings of criminal case so lodged by the wife were also quashed as a sequel to this compromise. It is subsequent thereto the complaint in question has been filed in March 2008. A close perusal of the same shows that the incidents narrated therein are pertaining to the year 2007 much prior to the compromise which is on 09.02.2008 and subsequent thereto divorce has been obtained on 27.09.2008 and the parties have sorted out their disputes for all times to come and in this complaint the mere allegations are that he has received a suicide note from his son and he has apprehension that the accused persons have kidnapped his son and kept him at unknown place and might throw his dead body at unknown place

with a view to extract money and has lodged a complaint on 27.11.2007 regarding missing of his son. It is highly unacceptable that after parties have effected compromise in year 2008 wherein signatures of the husband and the wife besides others are there and subsequently husband and wife have filed a divorce petition and have secured divorce through mutual consent and that how can complaint based on occurrence which took place in 2007 can materialize rather shows all these allegations are figment of lies devoid of any merit and are mere absurd and misuse of the process of the Court of law for an ulterior motive. Even learned Magistrate in its summoning orders dated 17.03.2010 (Annexure P9) did not elicit any reasons for passing of these orders which is more of mechanical one without application of mind. By now it is well settled law as to eventualities of exercise of powers under Section 482 Cr.P.C. reference of which can be taken note of the ratio laid down in '**State of Haryana and others v. Ch.Bhajan Lal and others**' 1992 AIR SC 604, which is reproduced below to lay emphasis:

- (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 F.I.R. 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.

It clearly lays down that whenever this Court comes to a conclusion that allowing of a proceeding is clearly an abuse of the process of the Court and that the ends of justice so require such proceedings needs to be put to an end. This Court is well within its powers under Section 482 Cr.P.C. to quash such proceedings and which is also the position of law laid down in '**Dhariwal Tobacco Products Ltd. and others v. State of Maharashtra and another**' 2011 AIR (SC) (Cri) 1846. Thus, in the light of these contentions and that the entire gamut of allegations are impregnated with falsehood being used as a tool of vendetta and is clearly and clearly abuse of the process of law and thus, continuing of the same will be not only prejudicial and against canons of justice but would be out and out misuse of the process of Court affecting the very dispensation and administration of justice necessitating immediate intervention to meet the ends of justice and to secure it as well as to prevent the agony of an undesirable trial. Thus, in

the totality of these discussions calls upon this Court to show indulgence. In the light of the same the complaint (Annexure P8) and the summoning order (Annexure P9) being purely by way of malicious prosecution needs to be quashed. Thus allowing present petition both these complaint as well as summoning order are hereby quashed. Petition is allowed.

**(FATEH DEEP SINGH)**  
**JUDGE**

**July 28, 2016**  
*rps*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |