

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

**Crl. Misc. No.M-38807 of 2012 (O&M)
Date of decision : 26.07.2016**

Parmila Devi and another

.....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.**

Mr. Sanjay Kr. Saini, AAG, Haryana.

**Mr. N.S. Shekhawat, Advocate
for respondent no.2.**

ANITA CHAUDHRY, J.

This petition has been filed by the married sister in law and her husband, who are seeking quashing of the FIR No.116 dated 24.05.2012, registered under Sections 498-A, 406, 323, 342, 313, 506 IPC, Police Station Kanina, District Mahendergarh.

A matrimonial dispute between Suman and her husband had given rise to a criminal case against Naresh and his close relatives. The fact as they appear from the record are that the complainant was married to Naresh in December, 2010. Naresh is a Constable in the Army. Differences arose and a FIR was registered within two years of the marriage on 24.05.2012 at Police Station Kanina at District Mahendergarh. The husband had filed a divorce petition in March, 2010. The allegations levelled by the complainant were that soon after Vidai ceremony the husband, mother in

law, father in law, sister in law and her husband started throwing taunts and were not happy with the dowry. Allegations were levelled that each day, the behaviour of the accused became worse and they started beating her and did not allow her to use the dowry articles. She was not allowed to wear the clothes that were given by her parents. Allegations were also levelled that the husband on the instigation of the mother in law, sister in law and her husband administered a pill so that it would lead to an abortion. Allegations were levelled that she was kept without food for several days and was not allowed to speak to her parents and her parents were called baggers and there was a demand of Rs.10,000/-. Allegations were also levelled that on account of the mental disturbance her parents were taking treatment from a psychiatrist.

The police investigated the case and filed the challan and the case is fixed for framing of charge for 30.07.2016.

The petitioners claim that petitioner no.1 was married in 2005 and was a teacher and her husband is a Constable with Delhi Police and vague allegations were levelled and they were not residing in the same house and they had been wrongly named. It was urged that no specific date of incident has been mentioned and there was a tendency to rope in the entire family and their implication was meant to harass and humiliate the husband's relatives. Reliance was placed upon ***Preeti Gupta Vs. State of Jharkhand 2010(7) SCC 667, Geeta Mehrotra and another Vs. State of U.P. And another Crl Appeal No.1674 of 2012, D.O.D.17.10.2012, Ramesh Vs. State of Tamil Nadu 2005 AIR (SC) 1989, Kamaljit Singh Vs. State of Punjab 2004(1) RCR (Criminal) 321 and Divya @ Babli and others Vs. State of Haryana and another 2006(4) RCR (Criminal) 322.***

On the other hand, the counsel appearing for the complainant had vociferously urged that there are specific allegations against the sister in law and the husband and they had instigated the husband to administer the pill. It was urged that they have placed on record documents to show that the child of the petitioners was studying in a public school at Zainabad even till 2011 and since the husband was posted in Delhi, therefore, petitioner no.1 was living with her parents. The counsel has referred to copy of the ration card (Annexure R2/1). The State counsel had urged that the police had investigated the case and had found a prima facie case against them and had filed the challan.

Responding to the arguments, the counsel for the petitioner had urged that petitioner no.1 was working as a teacher in Bharti Foundation and had referred to Annexure P-4 and the ration card to show that Parmila's name figures in the ration card with her in-laws since 2007.

The Apex Court in a number of cases has laid down the scope and ambit of Courts' powers under [Section 482](#) Cr.P.C. the 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.*

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.

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.

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."

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."

I have considered the submissions made on behalf of both the sides and have gone through the record.

It is not in dispute that petitioner no.1 was married much prior to the marriage of the complainant. She was appointed as a teacher in 2010. Her husband is a Constable with Delhi Police. Their implication in the complaint appears to be to harass and humiliate the husband's relatives. Bald allegations have been made against the sister in law and her husband and it suggests her anxiety to involve and rope in as many relatives of the husband as possible. The petitioners cannot be relegated to the ordeal of trial. There are casual references to their names in the FIR. There are no allegations of active involvement, which would justify their trial. The continuation of the case against the petitioners would be a total abuse of the process of law and it is a fit case to invoke the provisions of Section 482 Cr.P.C. The petition is allowed and FIR No.116 dated 24.05.2012, registered under Sections 498-A, 406, 323, 342, 313, 506 IPC, Police Station Kanina, District Mahendergarh is quashed qua the petitioners.

26.07.2016

sunil

(ANITA CHAUDHRY)
JUDGE