

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

**Criminal Misc. No. M-8265 of 2016 (O&M)
Date of decision: 06.04.2016**

Meena Sharma and another

..Petitioners

Versus

The State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Ishan Sharma, Advocate
for the petitioners.

Daya Chaudhary, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.151 dated 20.08.2010 registered under Sections 406, 498-A and 506 of Indian Penal Code, at Police Station Division No.7 (Vardhaman), City Ludhiana.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the case. In the petition filed under Section 125 Cr.P.C., it was stated by the complainant herself that all dowry articles were sent to Jhunjhunu (Rajasthan) one day prior to the marriage and this fact was also admitted in her cross-examination before Judicial Magistrate Ist Class, Ludhiana. Learned counsel further submits that no cause of action arose at Ludhiana as

neither any act of cruelty nor demand of dowry was made at Ludhiana. Even the complainant has not stated any time, date and month of calling of the Panchayat at Ludhiana. As per FIR, it was a simple marriage and the present FIR has been registered in a pre-planned manner with *malafide* intention in connivance with Police. At the end, learned counsel for the petitioners submits that lodging of FIR against the present petitioners is an abuse of process of law and as such, continuation of proceedings would not only cause irreparable loss but it will also result into failure of justice.

Heard arguments of learned counsel for the petitioners and have also perused the allegations levelled in the FIR.

Admittedly, the petitioners earlier filed Criminal Misc. No. M-33168 of 2010 for quashing of the aforesaid FIR and the same was dismissed on 21.02.2012 by passing a speaking order. It has specifically been mentioned in the order that the charges have been framed and trial is going on as the case was fixed for recording of evidence of the witnesses. Same grounds were raised in the earlier petition i.e., no cause of action had arisen at Ludhiana as dowry articles were not entrusted to the petitioners at Ludhiana. By considering the allegations levelled against the accused and stage of the trial and also that the charges were framed, the earlier petition was dismissed.

On the last date of hearing, the case was adjourned on request of learned counsel for the petitioners to address arguments as to how the second petition for quashing of FIR is maintainable when

the earlier petition was dismissed on merits.

Learned counsel for the petitioners has not been able to convince the Court as to how the second petition for quashing of FIR is maintainable after advancement of trial.

Same issue was there for consideration before Hon'ble the Apex Court in **State of Punjab vs. Davinder Pal Singh Bhullar, 2012(1) RCR (Criminal) SC 126** wherein it was held that by filing the second petition with similar prayer, the petitioner had indirectly sought review of earlier order, which was legally impermissible. It was also held that the petitioner was not entitled for any relief because he had already availed the opportunity and case was dismissed on merits with costs after discussing the scope of Section 482 Cr.P.C.

Filing of second petition on the same cause of action, on the basis of which, earlier petition was dismissed by passing a speaking order, is not only misuse of process of law as valuable time of the Court is wasted and even the same is also not maintainable.

Same issue was dealt with by the Madras High Court in **Thanickachalam and another vs. State, 2003 CriLJ 2666** and the observation made in para Nos.10 and 11 is reproduced as under: -

“10. In these circumstances, the foremost question that arises for consideration and determination prior to entering into the facts and circumstances of the case as projected in the above criminal original petition is `whether the petitioners are entitled to file yet another criminal original petition on one and the same subject in spite of the same having already been

decided by this Court and whether a second criminal original petition could be maintained under Section 482 of the Code of Criminal Procedure?

11. If the exercise of the inherent powers conferred on the High Court is exhausted once, there cannot be a second exercise of the same power for one and the same subject, which has already been exercised and therefore neither the petitioner has the right to file repeated criminal original petitions in spite of the earlier criminal original petition filed by them having already been decided once and for all nor is it necessary on the part of this Court to exercise its inherent powers a second time having already passed an order in exercise of the said power conferred by law and therefore, the above criminal original petition filed by the petitioners become only liable to be dismissed as not maintainable and with heavy costs. However, in consideration of the petitioners age, this Court is not of the view to impose costs and hence the following order:

In result, the above criminal original petition fails and the same is dismissed as not maintainable.”

In view of the fact and law position as discussed above, there is no merit in the contentions raised by learned counsel for the petitioners and the petition being devoid of any merit is hereby dismissed.

06.04.2016
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(DAYA CHAUDHARY)
JUDGE