

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

CRM No. M-1558 of 2016.

Date of Decision: 07.10.2017.

Balwant Singh Dhillon and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. HPS Ishar, Advocate for
Mr. Pardeep Bajaj, Advocate,
for the petitioners.

Mr. H.S. Grewal, Addl. AG, Punjab.

JITENDRA CHAUHAN.J.(ORAL)

This is a petition under Section 482 of the Code of Criminal Procedure for quashing of FIR No. 48 dated 28.03.2013 registered under Sections 406, 498-A and 506 read with Section 34 IPC at Police Station Payal, Police District Khanna, District Ludhiana.

It is contended that the petitioners are the parents-in-law of the complainant. In fact, the dispute is between the complainant and her husband. The petitioners have nothing to do with the married life of the complainant and their son. The petitioners have been residing separately since 2010. It is further contended that the petitioner No.1 is a retired Army personnel whereas, petitioner No.2 is a household lady. The FIR qua co-accused (brother-in-law) has been already quashed vide order, Annexure P-13.

On the other hand, the learned State counsel opposes the prayer. It is submitted that there are specific allegations with regard to entrustments of dowry articles to the petitioners.

Heard.

It is alleged in the FIR that the dowry articles were entrusted to the petitioners and their son i.e husband of the complainant. The complainant was harassed for not bringing sufficient dowry. On 20.10.2012 husband of the complainant along with the petitioners kept her locked inside the room throughout the day. In the evening at about 8.00 p.m., she was given beatings and a demand of Rs.5 lakh was raised. As per the allegation, she was again beaten up. The petitioners allegedly pulled her hair. An attempt was made to kill her after putting veil around her neck.

As against the allegations, the stand of the petitioners is that no such occurrence had ever taken place. The story is concocted one. The petitioners have been roped in just to create pressure upon the husband. The entire version is exaggerated.

Hon'ble the Supreme Court in **State of Haryana and others vs. Ch. Bhajan Lal and others, 1991(1) RCR (Criminal) 383**

held as under:-

In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power

could be exercised 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 channelised and inflexible guide- myriad kinds of cases wherein such power should be exercised:-

(a) 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;

(b) 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for

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(4)

wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

Further this Court in M/s Hybrid Seeds and

Pesticides, Abohar vs. State of Punjab 1997(3) RCR (Criminal) 768

held as under:-

“The disputed questions of fact cannot be gone into in the proceedings under Section 482 Cr.P.C. The averments made in the petition are not evidence.”

The proceedings under Section 482, Criminal Procedure Code, cannot be invoked in the present case as the case of the petitioners is not covered under the guidelines laid down by Hon'ble the Supreme Court in the judgment reported as State of Haryana vs. Ch. Bhajan Lal (supra). The disputed questions of facts shall be decided by the trial Court after leading evidence by both the parties.

Consequently, the petition is dismissed.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

07.10.2017.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No