

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

CRM-M-22868 of 2017 (O&M)
Date of decision: 20.11.2017

Rita Rana

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Deswal, Advocate for the petitioner(s).

Mr. Arun Kumar, AAG, Haryana.

None for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No. 431 dated 21.07.2015 (Annexure P-1), registered under Sections 406, 498-A read with Section 34 of IPC, at Police Station Ratia, District Fatehabad and all consequential proceedings arising therefrom.

Learned counsel for the petitioner states that the petitioner is sister in-law of respondent No.2. The only allegation against the petitioner is entrustment of Rs.5100/- and one gold ring as a gift in the marriage. The petitioner is an unmarried sister

of main accused/husband, namely Kuldeep Rana and has been falsely roped in the present FIR. The recovery of gold ring has already been effected. The only allegation levelled against the petitioner was that the petitioner was aware of the fact of impotency of her brother, however, no medical test was conducted upon him.

The learned State counsel admits the above factual aspect of the matter, however, he states that the petitioner was aware of the fact of impotency of her brother and the same was not conveyed to the family of the complainant.

Heard.

In **State of Haryana and others** Vs. **Ch. Bhajan Lal and others**, 1991(1) RCR (Cr.) 383, Hon'ble the Supreme Court has framed the following guidelines:-

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

The substance of the FIR against co-accused, the brother of the petitioner is his impotency, whereas, it is asserted that no medical test was conducted upon him as admitted by learned state counsel. Except the bald allegations of entrustment of Rs.5100/- and one gold ring, no other substance was found in the FIR against the petitioner. The petitioner is the un-married sister of main accused, Kuldeep Rana and sister in-law of respondent No.2.

In the absence of any medical evidence, the allegations that the petitioner was aware of the physical health of her brother and the same was not conveyed to the family of the complainant is not proved. In view of the above facts and circumstances, the Court finds no substance in the submissions made by learned State counsel that the fact of impotency was known to the petitioner and same was not communicated to the complainant or her family members by her. The allegations made in the FIR are absurd and inherently improbable and appears to have been made with the intention to rope in all the family members of the petitioner.

Accordingly, the present petition is allowed. FIR No. 431 dated 21.07.2015 (Annexure P-1), registered under Sections 406, 498-A read with Section 34 of IPC, at Police Station Ratia, District Fatehabad and all consequential proceedings arising therefrom are hereby quashed qua the present petitioner(s).

20.11.2017

*sumit.k***(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable:	Yes	No