

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

CRM No.M-24375 of 2015 (O&M)

Date of decision: 29.03.2017

Harvinder Kaur and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. N.P.S. Mann, Advocate for the petitioners.

Mr. Mikhail Kad, AAG, Punjab.

Mr. A.S. Brar, Advocate for the complainant.

REKHA MITTAL J.

CRM No.169 of 2016

Heard.

Allowed as prayed for.

Reply by way of affidavit of complainant – Gurdeep Kaur is taken on record subject to just exceptions.

Disposed of accordingly.

CRM-M No.24375 of 2015

The petitioners pray for quashing of FIR No.133 dated 03.10.2012 under Sections 498-A, 494, 406 and 109 of the Indian Penal Code (in short 'IPC') registered at Police Station Bagha Purana, District Moga and the proceedings emanating therefrom.

Counsel for the petitioners has submitted that Gurdeep Kaur – complainant was married with Gurmeet Singh (since deceased) on 03.07.1996. A son was born out of the wedlock on 14.07.1997. The present FIR was lodged by the complainant in the year 2012 after more than 16 years of marriage of the complainant and Gurmeet Singh. Counsel, in line with the allegations raised in the petition would submit that criminal proceedings against the petitioners are nothing short of

abuse and misuse of process of law and liable to be quashed. To substantiate his contention, counsel has invited attention of the Court towards a compromise dated 21.04.2012 wherein it was decided as to the domestic chores to be looked after by the complainant and Sukhpal Kaur earlier wife of Gurmeet Singh but the compromise does not make reference either to harassment of the complainant on account of demand of dowry or misappropriation of her istridhan.

Counsel for the State assisted by counsel for the complainant would submit that the petitioners have sought to raise disputed questions of fact that cannot be decided in exercise of jurisdiction under Section 482 Cr.P.C. It is further submitted that charge was framed against the accused in the year 2013 but the petitioners neither disclosed that charge has been framed nor the order framing charge has been challenged. Further argued that after framing of charge, 05 witnesses of the prosecution have already been examined. At the time of issuance of notice of motion vide order dated 27.07.2015, parties were directed to remain present in the Court to explore possibility of settlement and in the meantime, further proceedings were ordered to be stayed. It is vehemently argued that taking into consideration stage of the proceedings pending before the trial Court, the petitioners are not entitled to indulgence of this Court under Section 482 Cr.P.C.

I have heard counsel for the parties and perused the paperbook.

The present petition was filed in July, 2015. Counsel for the petitioners has not disputed that charge was framed in the year 2013

and before stay of the proceedings by this Court vide order dated 27.07.2015, 05 witnesses of the prosecution had already been examined. A plain reading of the averments set up in the petition would evident that there is no reference to framing of charge much less examination of the witnesses by the prosecution. It appears that the petitioners intentionally did not challenge the order framing charge so that the Court may not inquire about status of the proceedings pending before the trial Court. As per the settled position in law, a party who approaches the Court with unclean hands is not entitled to any indulgence even if otherwise his claim is meritorious. This fact alone is sufficient to discard prayer of the petitioners for quashing of criminal proceedings in exercise of inherent jurisdiction under Section 482 Cr.P.C., to be used sparingly.

This apart, as the petitioners have raised disputed questions of fact and the proceedings before the trial Court had already progressed to substantial extent by the time petition was filed in the year 2015, it would be in the interest of justice that the matter is left to be decided by the Court below on the basis of evidence.

For the foregoing reasons, the petition fails and is accordingly dismissed. Nothing stated hereinbefore would cause prejudice to either of the parties in the proceedings pending before the trial Court.

(REKHA MITTAL)
JUDGE

29.03.2017
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No