

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

CRM-M-29248-2015 (O&M)
Date of decision : 06.10.2017

Harmanpreet Kaur @ Bani

...Petitioner

Versus

Harbhajan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kshitij Sharma, Advocate,
and Mr. Pratham Sethi, Advocate,
for the petitioner.

Mr. Jasjeet S. Dhaliwal, Advocate,
for Mr. H.S. Brar, Advocate,
for the respondent.

JITENDRA CHAUHAN, J.

This petition under Section 482 of the Code of Criminal Procedure has been filed, *inter alia*, for quashing of complaint dated 20.04.2013 (Annexure P-6); summoning order dated 11.08.2014 (Annexure P-10); and order dated 17.07.2015 (Annexure P-13) in terms of which the revision petition filed by the petitioner has been dismissed.

Contents that the instant complaint is a counter-blast to FIR No.59 dated 31.12.2012, registered at Police Station Women Cell, Patiala, at the behest of the petitioner against her matrimonial family including the complainant herein (father-in-law of the present petitioner). The co-accused/husband of the petitioner has already been declared a proclaimed offender vide order dated 06.06.2014 (Annexure P-9). Earlier, the

complainant-respondent moved the complaint before the police and after investigation, the petitioner was exonerated in view of reports dated 10.01.2013 (Annexure P-4) and dated 04.03.2013 (Annexure P-5). Thereafter, the respondent moved the instant complaint before Illaqa Magistrate, Jalandhar on 20.04.2013 (Annexure P-6). Learned trial Court called for a report under Section 202 Cr.P.C. and the petitioner was again exonerated as no incriminating evidence could be collected against him. Learned trial Court summoned the petitioner to face trial after the aforementioned factual aspect of the matter. Thus, it is contended that the complaint (Annexure P-6) and the subsequent summoning order dated 11.08.2014 (Annexure P-10), are nothing but an abuse of the process of law. Now, another FIR bearing No.189 dated 20.06.2015, under Sections 323, 452 and 506 IPC has been registered against the respondent by the uncle of the petitioner.

On the other hand, learned counsel for the respondent has opposed the instant petition. It is contended that specific allegations with regard to breach of trust and theft of gold ornaments have been levelled against the accused. The complainant has led preliminary evidence and after perusal of the same, the impugned summoning order has been passed.

Heard.

It has been alleged that the petitioner had been entrusted with gold ornaments at the time of marriage of elder son of the complainant. Rupees two lakh and foreign currency to the tune of 1300 Canadian dollars have been allegedly misappropriated by the petitioner. The complainant has led preliminary evidence by examining six witnesses who have supported

the complainant's case. Learned trial Court, after appreciating the allegations levelled in the complaint and evidence led in support thereof, summoned the accused-petitioner to face trial under Section 406 IPC and dismissed the complaint under Sections 379, 420, 506 and 120-B IPC. The complaint against her father-accused No.1 was ordered to be dismissed in toto. The fact that two FIRs stand registered against the complainant's family at the behest of the petitioner and her uncle does not absolve the petitioner from the offence allegedly committed by her.

The petitioner has not been able to explain as to how the involvement of the petitioner is not made out in the matter. Rather, specific allegations have been levelled against the petitioner, which makes out a prima facie case against the petitioner at this stage.

In the circumstances, it cannot be said that learned trial Court did not apply its mind while passing the impugned order of summoning. The arguments raised by learned counsel for the petitioner relate to the factual aspect of the matter, which shall be dealt with by the trial Court at appropriate stage after appreciating the evidence led by the parties. Hon'ble the Supreme Court has laid various guidelines on the subject in case reported as ***State of Haryana and others Vs. Ch. Bhajan Lal and others, 1991(1) RCR (CrL) 383***, which are reproduced as under:-

(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 investi- gation 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 265 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.”

A perusal of the above guidelines would show that in cases, where disputed question of fact is involved and requires evidence to prove the same, provisions of Section 482 Cr.P.C. ought not be invoked.

The Court feels that no cause of action has arisen in favour of

the petitioners to invoke the inherent jurisdiction of this Court by way of filing the instant petition. Consequently, the instant petition is dismissed.

06.10.2017
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(JITENDRA CHAUHAN)
JUDGE

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