

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

248

CRM-M-34219-2014 (O&M)  
Date of Decision: 04.12.2017

Didar Singh and ors.

..... Petitioners

Versus

State of Punjab and anr.

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr.Pawan Kumar, Senior Advocate, with  
Mr.Rozar Kumar Aggarwal, Advocate,  
for the petitioners.

Mr.Rana Harjasdeep Singh, AAG, Punjab,  
for respondent No.1.

Mr. HPS Ishar, Advocate,  
for respondent No.2.

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**JITENDRA CHAUHAN J. (Oral)**

The instant petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.80 dated 08.07.2014, registered under Sections 406 and 498-A of Indian Penal Code (for short 'the IPC'), at Police Station Women, District Ludhiana.

It is contended that it was a simple marriage wherein no dowry was either demanded or received by the petitioners. The istridhan and other gifts of respondent No.2 have already been handed over to her during investigation. Further states that the instant FIR has been lodged at Ludhiana without jurisdiction as the alleged offence has been committed at Secunderabad, Hyderabad. Respondent No.2 left the company of the petitioner-husband on her own and despite the best efforts of the petitioners,

she did not come back to join their company.

On the other hand, learned counsel for respondent No.2 states that there are specific allegations of cruelty and criminal breach of trust against the petitioners.

Heard.

A perusal of the FIR would reveal that the complainant-respondent has levelled specific allegations against the petitioners of entrustment of dowry articles and misappropriation thereof. The assertions raised by learned Senior counsel for the petitioners relate to the factual aspect of the matter which this Court is not inclined to go into, at this stage.

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 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.”

A perusal of the above guidelines would show that in cases, where disputed questions of facts are involved and require evidence to prove the same, provisions of Section 482 Cr.P.C. ought not be invoked. In the case in hand, the allegations in the complaint constitute a cognizable offence justifying registration of case and investigation thereon and does not fall under any of the categories enumerated above. Similar view has been taken by this Court, in ***M/s Hybrid Seeds and Pesticides, Abohar Vs. State of Punjab (P&H), 1997(3) R.C.R. (Criminal) 768.***

In view of the above, no case for quashing the FIR is made out, at this stage.

Dismissed.

However, considering the fact that petitioner No.1, father-in-law, is a retired Army Officer and petitioner No.2, mother-in-law, is

residing in Hyderabad, their personal appearance shall remain exempted before the trial Court on furnishing specific affidavits that the evidence be recorded in their absence.

Dismissed.

04.12.2017  
*P.Seth/atulsethi*

(JITENDRA CHAUHAN)  
JUDGE

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