

CRM-M-35271-2015
Date of decision: 05.12.2017

Ravinder SinghPetitioner

versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**Present:** Mr. Sunil Kumar, Advocate for
Mr. B.R. Rana-I, Advocate
for the petitioner.

Ms. Anju Arora, Addl.A.G., Punjab.

Mr. H.K. Brinda, Advocate
for respondent No.2.**JITENDRA CHAUHAN, J. (ORAL)**

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.39 dated 19.03.2015 registered under Section 498-A IPC and Sections 67 and 71 of Information Technology Act, 2000 at Police Station Anandpur Sahib, District Rupnagar.

It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. No such occurrence as alleged in the FIR ever took place. There was no demand of dowry or any act of cruelty on the part of the petitioner.

On the other hand, the learned State counsel opposes the prayer made by learned counsel for the petitioner. It is contended that the petitioner is a *tantrik* and he has been playing with the lives of different people. The averments made in the FIR *qua* demand of dowry and beatings given by the petitioner, were found to be made out against the petitioner.

Heard.

It is to be noticed that in the FIR, there are specific allegations of demand of dowry, beatings and obscene photographs allegedly carried out by the petitioner. Though, the petitioner has denied the same, however, the record is contrary to the stand taken. Otherwise also, these are purely questions of fact which cannot be adjudicated in the present petition. The rival pleas can be decided by the trial Court after leading evidence by both the parties.

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 channelized 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 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.

(JITENDRA CHAUHAN)
JUDGE

05.12.2017
Neha

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No