

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

Date of decision: 06.03.2017

1. CRM-M No.39968 of 2014

Gurnam Singh and another

....Petitioners

Versus

Kulbir Kaur

....Respondent

2. CRM-M No.41780 of 2014

Bachittar Singh and another

....Petitioners

Versus

Kulbir Kaur

....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.S. Gill, Advocate
for the petitioners (in both the petitions)

Ms. Satwant Mehta, Advocate
for respondent (in both the petitions)

REKHA MITTAL J.

This order will dispose of CRM-M No.39968 of 2014 '*Gurnam Singh and another vs Kulbir Kaur*' and CRM-M No.41780 of 2014 '*Bachittar Singh and another vs Kulbir Kaur*' as these have emerged out of the same proceedings and involve identical questions of law and fact for adjudication. For brevity, facts are taken from CRM-M No.39968 of 2014.

Counsel for the petitioners has submitted that Kulbir Kaur, sister-in-law (*Jethani*) of Jaspal Kaur (since deceased) filed a criminal complaint in the Court levelling allegations against Bachittar Singh,

brother of Jaspal Kaur, Gurnam Singh and Shindo, parents of Jaspal Kaur and Gursewak Singh, cousin brother of Jaspal Kaur that they have abetted commission of suicide by Jaspal Kaur; as per allegations raised in paras 5 to 7 of the complaint. It is argued that in regard to suicide by Jaspal Kaur, FIR No.102 dated 05.12.2013 was registered at Police Station Khalra under Sections 306 and 304-B of the Indian Penal Code (in short 'IPC') against the husband and in-laws of deceased Jaspal Kaur. The police arrested father-in-law of the deceased and petitions filed by parents-in-law of Jaspal Kaur were dismissed by the Punjab and Haryana High Court vide order dated 03.07.2014. It is further submitted that the deceased left behind a suicide note whereby she has put entire blame on her in-laws family members *qua* harassment meted out to her during her stay in the matrimonial home. The suicide note was recovered by the police and sent to the Forensic Science Laboratory, Mohali for verification and as per the report submitted by the FSL, the suicide note is in the hand-writing of the deceased. It is further argued that Kulbir Kaur, the only member of in-laws family of Jaspal Kaur who was not indicted in the crime registered vide aforesaid FIR, filed a false complaint by concocting a cock and bull story with an intent to put pressure upon the petitioners by bringing-forth allegations akin to cross-version and with an intent to wreck vengeance, after about 02 months of the occurrence. It is vehemently argued that allegations raised by the respondent are absurd and cannot be accepted by any prudent person, therefore, complaint filed by the respondent and proceedings emanating therefrom are nothing but an abuse and misuse

of process of law and liable to be quashed.

Counsel for the respondent, on the contrary, would urge that at the stage of issuing of process to an accused in a private complaint, the Court only has to examine the truth or falsity of the allegations to arrive at a conclusion if a *prima facie* case is made out for summoning of the accused. Any plea in defence likely to be raised by the accused cannot be taken into consideration at this stage of the proceedings. The last submission made by counsel is that it is for the trial Court to examine the correctness or otherwise of the allegations raised in the present petition during the course of trial, therefore, criminal proceedings pending before the Court cannot be scuttled at the threshold more particularly in the circumstances that Jaspal kaur committed suicide during her stay in her parental home. In addition, it is argued that in the complaint filed by Jaspal Kaur, there is reference that the police has falsely charged her in-laws, sufficient to show that the respondent has not concealed any fact from the Court.

I have heard counsel for the parties and perused the paperbook with able assistance rendered by counsel for the parties.

Before adverting to the submissions made by counsel for the parties, it is appropriate to recapitulate the legal position with regard to scope of intervention by this Court in such like proceedings, in exercise of jurisdiction under Section 482 Cr.P.C.

Hon'ble the Supreme Court of India in "***Smt. Nagawwa vs Veeranna Shivalingappa Konjalgi and others***", AIR 1976 (SC) 1947

after considering earlier judgments of the Apex Court "**Chandra Deo Singh vs Prokash Chandra Bose**", 1964(1) SCR 639 and "**Vadilal Panchel vs Dattatraya Dulaji**", 1961(1) SCR 1 has held that in the following cases an order of the Magistrate issuing process against the accused can be quashed or set-aside:-

- 1. Where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;*
- 2. Where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;*
- 3. Where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and*
- 4. Where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like. The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can quash proceedings.*

Later, in "**M/s. Pepsi Foods Limited vs Special Judicial Magistrate**", 1997(4) RCR (Criminal) 761, the Apex Court has held in para 26, quoted thus:-

“26. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and that would be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

Coming to the facts of the case in hand, gist of the allegations detailed in paras 5 to 7 of the complaint reads as follows:-

1. Sarabjit Kaur, sister-in-law of the complainant/respondent as well as of the deceased is staying at her parental home being a divorcee. Bachittar Singh (brother of Jaspal Kaur – deceased) used to trouble Jaspal Kaur by pressurizing her to get Sarabjit Kaur married to him. Due to this reason Bachittar Singh has taken Jaspal Kaur to village Rajoke. Jaspal Kaur was very happy with her husband – Sujan Singh and they never fought with each other.

2. Bachittar Singh, Gurnam Singh, Shindo and

Gursewak Singh were stopping Jaspal Kaur from going to her husband, Sujan Singh's home because of which she (Jaspal Kaur) remained distressed. Jaspal Kaur repeatedly refused to get Sarabjit Kaur married to Bachittar Singh because Bachittar Singh's third wife Amandeep Kaur was residing with Bachittar Singh as a wife.

3. *On 24.11.2013, the respondent along with Nishan Singh (her husband) Lakhwinder Singh and Jasbir Singh went to bring Jaspal Kaur back where all the accused were present and requested to send Jaspal Kaur back so that she can continue with her marital life and Jaspal Kaur wanted to come along with them and she also pleaded with the accused that she should be sent back to her marital home but the accused did not allow her to go back. Again on 03.12.2013, she along with Nishan Singh and Sujan Singh (husband of Jaspal Kaur) went to the house of the accused, pleaded with them to send Jaspal Kaur back with them, Jaspal Kaur wept and pleaded to allow her to go back to her matrimonial home but the accused did not permit her to return to her matrimonial home.*

The allegations have been levelled not only against Bachittar Singh but also against parents of Jaspal Kaur namely Gurnam Singh and Shindo. As per the allegations, Bachittar Singh was already married thrice and his third wife, Amandeep Kaur was residing with him. It is difficult to accept to reason and beyond human prudence that parents of a married girl would put so much pressure upon their daughter to get her sister-in-law (*Nanad*) married to their son, causing mental disturbance deriving her to commit suicide. This apart, the version become improbable as Bachittar Singh was married thrice and his third wife Amandeep Kaur was living with him. That being so,

allegations raised by the complainant are patently absurd and inherently improbable, therefore, the complaint and proceedings emanating therefrom are liable to be quashed.

Examined from another angle, the respondent along with others went to parental village of Jaspal Kaur to bring her back on 24.11.2013 but the accused did not permit her to go back despite request made by the complainant and others as well as Jaspal Kaur. She again went there on 03.12.2013 with the same request to send Jaspal Kaur back but without any success. There is nothing on record to suggest that either the husband of Jaspal Kaur or any other member of her in-laws family ever expressed any grievance against alleged misconduct of the accused before any Panchayat much less a public authority. I would hasten to add that this Court is well alive that in exercise of jurisdiction under Section 482 Cr.P.C. Court cannot examine truth or falsity of allegations as has been held by Hon'ble the Supreme Court of India in authoritative enunciation **"State of Haryana and others vs Ch. Bhajan Lal and others"**, AIR 1992 (SC) 604. However, in view of the discussion made hereinbefore when examined in the light of inaction on the part of complainant or in-laws family members of deceased, it reinforces the findings that the allegations brought-forth by the complainant are bereft of any basis.

Another aspect of the matter that invites consideration is that though in the last line of para 8 of the complaint, it has been mentioned that the police in hand in glove with the accused have falsely charged her in-laws but the complainant has cleverly concealed the

factum of registration of FIR No.102 dated 05.12.2013 against in-laws family members of the deceased. It appears that the complaint was drafted in a manner so that factum of lodging of FIR may not come to the notice of the Court but at the same time it may not be held at a later occasion that the complainant is guilty of concealing a material fact from the Court. This clever drafting also shows that the complainant wanted to procure a summoning order by deceitful means.

To be fair to the petitioners, it has been argued by counsel for the petitioners that Gursewak Singh, cousin brother of Jaspal Kaur has been indicted in the crime as in the FIR lodged by the parental family of Jaspal Kaur it was alleged that on one occasion, Gursewak Singh had gone to meet Jaspal Kaur at her in-laws house and Jaspal Kaur disclosed her plight to him, thus, Gursewak Singh would be one of the prosecution witnesses in the FIR case.

Counsel for the respondent has nothing to say in this regard.

As an upshot of the discussion made hereinbefore, criminal proceedings initiated at the instance of the respondent/complainant are nothing short of abuse and misuse of process of Court. As a natural consequence, the criminal complaint (Annexure P2) titled '*Kulbir Kaur vs Bachittar Singh and others*' pending in the Court of Judicial Magistrate Ist Class, Patti, summoning order dated 10.10.2014 (Annexure P3) and proceedings emanating therefrom are liable to be quashed and ordered accordingly.

For the foregoing reasons, the petitions are allowed leaving the parties to bear their own costs.

(REKHA MITTAL)
JUDGE

06.03.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No