

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

CRM-M-42958-2016

Date of decision: 7.12.2017

Sukchain Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.GS Jagpal, Advocate for the petitioner

Mr.Rana Harjasdeep Singh, AAG, Punjab
assisted by HC Jagjit Singh

Mr.RK Mattoo, Advocate for respondent No. 2

Mr.GS Bains, Advocate for respondent No. 3

JITENDRA CHAUHAN, J.

The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of First Information Report No.46 dated 12.4.2016 registered under Sections 363 and 366 of the Indian Penal Code (for short 'the IPC') at Police Station Samana, District Patiala and all consequential proceedings arising therefrom.

Learned counsel refers to Annexure P2 and P3, affidavit and application of Rupinder Kaur-respondent No.3, respectively, wherein she has specifically stated that she on her own free will went alongwith petitioner Sukhchain Singh.

Learned State counsel on instructions submits that after

investigation, no-incriminating evidence was collected against the petitioners and therefore, the cancellation report in the matter has been filed before the competent Court on 19.5.2017 and the same is pending consideration. However, the Court has not taken final view in the matter.

Heard.

Hon'ble the Supreme Court in the case of ***State of Haryana and others vs. Ch.Bhajan Lal and others*** reported as ***AIR 1992 Supreme Court 604*** has held as under :-

“In following categories of cases, the High Court may in exercise of powers under Art.226 or under S.482 of Cr.P.C. may interfere in proceedings relating to cognizable offences to prevent abuse of the process of any Court or otherwise to secure the ends of justice. However power should be exercised sparingly and that too in the rarest of rare cases:-

1)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.

2)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 S.156 (1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the Code.

3)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.

4)Where, the allegations in the F.I.R. 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 S.155(2) of the Code.

5)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.

6)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.

7)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.

8) Where allegations in the complaint did constitute a cognizable offence justifying registration of a case and investigation thereon and did not fall in any of the categories of cases enumerated above, calling for exercise of extraordinary powers or inherent powers, quashing of FIR was not justified.”

In the present case, the prosecutrix is about 30 year old. She is major. Keeping in view the fact that the cancellation report has been

filed in the Court; affidavit and the statement made by prosecutrix and in view of the ratio of law laid down in **Ch.Bhajan Lal's case (supra)**, the uncontroverted allegations made in the FIR and the evidence collected in support of the same do not disclose the commission of any offence and make out a case under Sections 363 and 366 IPC against the petitioner. The Court feels that it is a fit case to invoke its inherent jurisdiction under Section 482 Cr.P.C.

Accordingly, the present petition is allowed. First Information Report No.46 dated 12.4.2016 registered under Sections 363 and 366 IPC at Police Station Samana, District Patiala and all consequential proceedings arising therefrom are hereby quashed qua the present petitioner.

7.12.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No