

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

CRM-M-4399-2014

Date of decision: 13.11.2017

Gurcharan Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.LS Sidhu, Advocate for the petitioners

Ms.Gulnoor Ghuman, AAG, Punjab

None for respondent No.2.

JITENDRA CHAUHAN, J.

The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing the Criminal Complaint No.94 dated 20.7.2010, titled as “Harvinder Kaur @ Rani vs. Gurcharan Singh and another” under Section 406 and 498A of the Indian Penal Code pending in the Court of learned Judicial Magistrate, 1st Class, Ferozepur; the summoning order dated 12.6.2012 and the subsequent proceedings arising therefrom.

Learned counsel for the petitioners submits that the complainant is the daughter-in-law of the petitioners. Their son had expired due to the injuries suffered by him in a road side accident. The complainant with a motive to sell the land mutated in her name and in

the name of her son by the petitioners, who are the wife and son of their deceased son, the present complaint was filed only to harass the petitioners. The general and vague allegations have been levelled in the complaint. No offence under Sections 498A and 406 IPC is made out.

Learned State counsel informs that the complainant-respondent No.2 has remarried and the child born of the wedlock of the son of the petitioners and respondent No.2 is residing with respondent No.2.

I have heard the learned counsel for the parties and have gone through the case file carefully.

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.”

A bare perusal of the complaint makes it crystal clear that it is a civil dispute which has been given the colour of a criminal case. Admittedly, a civil suit filed by the petitioners for declaration to the effect that transfer deed executed by petitioner No.1 in favour of his deceased son when he was alive, and subsequent mutation on the basis of said transfer are wrong, illegal, null and void, is pending adjudication. No date, time and month has been mentioned in the complaint regarding demand of dowry and entrustment of dowry articles. The son of the petitioners died on 22.10.2006, whereas the complaint was moved on 20.7.2010, after a lapse of about four years. Considering the fact that after mutation of inheritance was entered in the name of the complainant/ respondent No.2 in respect of 1/3rd share in the name of the deceased son of the petitioners, which was subsequently challenged by the petitioners by way of a civil suit, wherein a restraint order has been passed against the complainant/ respondent No.2, the present complaint has been filed by respondent No.2 as a counter blast to the same. It has also come on record that respondent No.2 has now remarried. There is no iota of evidence against the petitioners to connect them even remotely with the commission of the alleged offence. The Court feels that the allegations of demand of dowry and cruelty meted out to the complainant / respondent No.2 at the hands of the petitioners, who happen to be her parents-in-law, are manifestly attended with mala

fide and the proceedings are maliciously instituted with an ulterior motive for wreaking vengeance on the petitioners, which calls for interference by this Court under Section 482 Cr.P.C.

Consequently, the present petition is allowed and the Criminal Complaint No.94 dated 20.7.2010, titled as “Harvinder Kaur @ Rani vs. Gurcharan Singh and another” under Section 406 and 498A IPC pending in the Court of learned Judicial Magistrate, 1st Class, Ferozepur; the summoning order dated 12.6.2012 and the subsequent proceedings arising therefrom are hereby quashed qua the present petitioners.

13.11.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No