

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

Date of decision-11.10.2017

1. CRM-M-7041-2016

Yuvraj Chander Kalia and another ...Petitioners

Vs.

State of Haryana and another ...Respondents

2. CRM-M-34082-2016

Abhishek Kalia ...Petitioner

Vs.

State of Haryana and another ...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ankur Lal, Advocate for the petitioner(s).

Ms. Dimple Jain, AAG, Haryana.

Mr. J.S.Hooda, Advocate for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

This judgment shall dispose of the aforementioned two petitions filed for quashing of FIR No.15 dated 21.09.2015 registered under Sections 376 read with Section 511, 354-A, 377 and 323 of Indian Penal Code (in short IPC) at Women Police Station, District Faridabad, Haryana and subsequently after investigation deleting all above sections and adding Sections 498-A and 406 of IPC.

Learned counsel for the petitioner(s) contends that initially the FIR was registered under Sections 376 read with Section 511, 354-A, 377 and 323. Subsequently, after investigation Sections 376 read with Section

511, 354A, 377 and 323 IPC were deleted and the challan was presented under Sections 498-A and 406 IPC. The allegations regarding cruelty for dowry in the whole FIR are missing. It is asserted that the present FIR is a glaring example of absolute misuse of law in order to harass and humiliate in-laws and to extort money from them.

On the other hand, learned State counsel opposes the prayer of the petitioners and contends that challan has been rightly presented against the petitioners under Sections 498-A and 406 IPC.

Learned counsel for respondent No.2 submits that the local police has colluded with the accused and arbitrarily deleted Sections 376 read with Section 511, 377, 354A and 323 IPC though there are specific allegations in this regard.

Heard.

In “*State of Haryana and others Vs. Ch.Bhajan Lal and others*”1991 (1) R.C.R.(Criminal) 383, Hon'ble the Supreme Court has laid down the following guidelines:-

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

5. Where the allegations made in the F.I.R. 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.

In the instant case, neither there are allegations of demand of dowry by the petitioners from respondent No.2/complainant in the FIR nor ingredients of Sections 498-A and 406 are made out against the petitioners who are husband and parents-in-law of respondent No.2.

The Investigating agency has rightly deleted Sections 376 read with Section 511, 354-A, 377 and 323 IPC as at this stage, beyond the bald assertion of respondent No.2, there is no evidence on record to suggest that the deletion of Sections 376 read with Section 511, 377, 354-A(1) and 323 IPC is the result of any collusion between the police and the petitioners. However, the challan presented against the petitioners under Sections 498-A and 406 IPC is nothing but an abuse of process of law.

Learned State counsel has pointed out that supplementary statements of respondent No.2 and her father were recorded by the

Investigating Officer on 16.10.2015, on the basis of which Sections 406 and 498-A IPC were added. Recording of supplementary statements of respondent No.2 and her father, Raman Khanna by the Investigating Officer after about a month of registration of FIR, is clearly an after-thought and is based on surmises and conjectures of the investigating agency. An altogether different story propelled by vitriolic reasoning has been put forth by the police.

In view of the above, this Court feels that it is a fit case to invoke its inherent jurisdiction under Section 482 Cr.P.C. to secure the ends of justice and to prevent the abuse of process of law.

Accordingly, both the petitions are allowed. FIR No.15 dated 21.09.2015 registered under Sections 376 read with Section 511, 354-A, 377 and 323 of IPC (Challan presented under Sections 406 and 498-A IPC after deleting the above sections) at Women Police Station, District Faridabad, Haryana and all consequential proceedings arising therefrom are hereby quashed qua the present petitioner(s).

October 11, 2017

vanita

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No