

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

Crl. Misc. M 15385 of 2012 (O&M)
Date of decision: September 6, 2018

Constable Surender Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Anshuman Dalal, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

Mr. Surinder Gandhi, Advocate,
for respondent No.2

JAISHREE THAKUR, J.

1. This is a petition that has been filed for quashing of FIR No. 687 dated 1.1.2011 registered under Sections 498-A, 406 and 506 IPC at Police Station City Rohtak, District Rohtak and all other consequential proceedings arising therefrom.

2. In brief, the facts are that the petitioner solemnized his marriage with respondent No.2—Naresh Kumari, as per Hindu rites on 5.3.1995. Within a fortnight, respondent No.2 got registered FIR No. 71 dated 6.4.1995 against the petitioner and his family members under Sections 498/406 IPC at Police Station Sadar, Bahadurgarh, Jhajjar. In the said FIR,

all the articles given in the marriage were recovered by the police as per memo dated 14.4.1995. In the FIR, after trial, the petitioner and his family members were acquitted of all charges on 6.12.1999. A compromise was then arrived at between the petitioner and respondent No. 2 and in terms of the compromise, the petitioner started living separately with respondent No.2, but another FIR No. 687 came to be registered on 1.10.2011 against the petitioner and his family members under Sections 498-A, 406 and 506 IPC at Police Station City, Rohtak. Aggrieved against the registration of the said FIR, the instant quashing petition has been filed.

3. Learned counsel appearing on behalf of the petitioner contends that the instant FIR is nothing but a sheer abuse of process of law, as all the dowry articles were recovered by the police in the earlier FIR registered on the similar set of allegations, by Memo dated 14.4.1995. It is also argued that the petitioner and his family members stood trial and were acquitted under the said FIR, after charges had been framed. It is also argued that the petitioner cannot be punished twice for the same offence on the same set of facts and it will attract the principle of double jeopardy. It is also argued that respondent No.2 herself has been convicted for the offence under Sections 332, 353 and 186 IPC and sentenced for a period of 2 years by judgment dated 4.3.2010 passed by the Additional Chief Judicial Magistrate, Rohtak. It is also argued that respondent No. 2 has submitted in her FIR that the petitioner gave her beatings on 23.9.2011 and 25.9.2011. These allegations are patently false, since during the aforesaid period, the petitioner was on

active duty at a distance of about 700 kms from Rohtak.

4. Reply has been filed on behalf of the respondent—State clearly reflecting that on the alleged date when respondent No. 2 was given beatings by the petitioner, he was present at the place of his posting at FTR HQ BSF, Jodhpur, Rajasthan.

5. Reply on behalf of respondent No.2 has also been filed, wherein it has been stated that the matter is now fixed for framing of charges and the petitioner has his remedy of raising all the grounds before the trial court, while also admitting to the fact that the petitioner is a Constable in the BSF and his place of posting is at Jodhpur but denied the attendance register on the ground that the same is manipulated.

6. I have heard learned counsel for the parties and with their able assistance have gone through the pleadings.

7. There is no dispute that the marriage was solemnized between the parties and instantly thereafter FIR No. 71 dated 6.4.1995 came to be registered against the petitioner and his family members under Sections 498-A, 506 IPC. The said FIR was investigated, a challan was presented, the petitioner and his family members faced trial. Learned trial court, after appreciating the evidence brought on record, came to hold that there is no direct or indirect incriminating evidence against the accused (petitioner and his family members) and acquitted them. Thereafter strangely enough, after a long gap of about 16 years, another FIR came to be registered on the allegations that respondent No.2 has been harassed by her husband, mother-

in-law, brother-in-law and sister-in-law for bringing less dowry. Separate allegations were also made that she was beaten on 23.9.2011 and 25.9.2011. In the said FIR there is no mention of the fact that the petitioner herein had already been acquitted on the same allegations under Sections 406 and 498-A IPC that have been made in the FIR, which was registered as far back as in 1995.

8. Reply as filed by respondent No.1 clearly reflects that the petitioner herein on the dates, when respondent No.2 was allegedly beaten by the petitioner, he was on active duty at Jodhpur, which is at a distance of about 700 kms from Rohtak. This reply has been filed after due verification of the attendance register being maintained by the employer of the petitioner, which is a public document and its authenticity cannot not be doubted.

9. In a judgment rendered in **State of Haryana Vs Bhajan Lal 1992 AIR SC 604**, guidelines have been laid down as to when the courts can exercise extra-ordinary power under Section 482 of the Code of Criminal Procedure to interfere and quash a FIR. Primarily, such power should be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice. The Supreme Court in the case of **State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors., (2014) 15 SCC 29** similarly observed that powers under Section 482 of the Code of Criminal Procedure must be exercised sparingly, carefully and with great caution. It is only when the Court comes to the conclusion that there

would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, should the Courts exercise power to quash the proceedings. In a latest pronouncement in the case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another, (2017) 9 Supreme Court Cases 641**, while discussing the various decisions of the Apex Court, the broad principles which emerge from the precedents on the subject, have been summarized in the following propositions:

“(i) [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or

complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and clause.

(ix) Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will

weigh in the balance.”

10. In view of the facts that the petitioner has already been acquitted on the same set of facts and it will be a sheer abuse of process of law if the petitioner to stand trial for the offences he already stood trial and was acquitted. The addition of alleged beatings on 23.9.2011 and 25.9.2011 stands falsified by the report of the State as the petitioner was on duty on the aforesaid dates at a distance of about 700 kms from Rohtak.

Under these circumstances, this petition is allowed and the FIR No. 687 dated 1.1.2011 registered under Sections 498-A, 406 and 506 IPC at Police Station City Rohtak, District Rohtak and all other consequential proceedings arising therefrom are quashed.

September 6, 2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No