

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

CRM-M-11720-2017

Date of Decision: 17.01.2018

Imrana and another

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rahul Jaswal, Advocate
for the petitioners.

Mr. Arun Kumar, A.A.G., Haryana.

ANITA CHAUDHRY, J.

This petition has been filed by the sister-in-law and her husband seeking quashing of FIR registered under Section 406, 498-A, 506 and 34 of IPC. Petitioner No.1 is the married sister-in-law of the complainant/respondent No.2. She was married in 2008. Petitioner No.2 is her husband, they have also been named in the FIR.

A complaint was given by Reshma-respondent No.2. She was married to Arif in February 2013. In the complaint Annexure P-3, it was disclosed that her husband, mother-in-law, sister-in-law and brother-in-law used to daily beat her. It was also disclosed that her husband was a divorcee and this fact was not known to them.

In this petition, we are concerned only with the allegation against the sister-in-law and her husband. The allegations made

against them were that they used to daily beat her and they tried to administer poison several times but remained unsuccessful. It was also alleged that she was tortured when she was pregnant and her child died few days after birth. Based on these allegations, the police had filed the challan against all the persons named in the FIR. The proceedings had been stayed as against the petitioners on 07.04.2017.

The submission on behalf of the petitioners is that they were married in 2008 and were living in Panipat whereas the complainant along with the husband used to reside separately. It was urged that the complainant did not give any details or the date and time of the incident and the State in its reply has admitted that there is no MLR. It was urged that the petitioners had never lived with the complainant and there is tendency to involve the entire family members and the present case is an example.

The submissions on the other hand is that the remedy under Section 482 Cr.P.C., is an extraordinary remedy and allegations have been made against the petitioners and evidence will have to be led and all the facts are not required to be introduced in the FIR.

On hearing both the sides, I am of the opinion that the present petition deserves to be allowed.

In the case of ***State of Haryana vs. Bhajan Lal, 1991(1) RCR (Criminal) 383: 1992 Supp(1) Supreme Court Cases 335***, the

Apex Court has held as under:-

“The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently chennelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

(1) Where the allegations made in the first information report or the complainant/respondent No.2, 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 FIR 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 FIR 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 Magistrate as contemplated under Section 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 specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings 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 '*Kans Raj vs. State of Punjab and others, 2000 (2)*

RCR (Criminal) 696 (SC)', their Lordships of the Apex Court have observed that a tendency has developed for roping in all the relations in dowry cases and if it is not discouraged, it is likely to affect case of the prosecution even against the real culprits. The efforts for involving the other relations ultimately weaken the case of the prosecution even against the real accused.

In the present case, the complainant was married to the brother of petitioner No.1 in February 2013. The petitioner was married to petitioner No.2 in 2008 and have a different household and are living in Panipat since 2008. A perusal of the FIR shows that the complainant did not give any details i.e. the date, time or year of

the incident and omnibus allegations have been levelled. It has been seen that there is a tendency to rope in all the relatives of the husband when a matrimonial dispute arises which needs to be curbed. There is no allegations with respect to entrustment of dowry articles, there is no allegations of any specific demand by them, there is no MLR to show that any injury was caused. The efforts of involving the relatives of the husband clearly weaken the case of the prosecution even against the real accused.

Having examined the facts of the case in hand and in the light of the legal position enumerated above, it is found that the complainant has enroped the petitioners merely because they are the relatives of the husband. There are no specific allegations against them and it is a fit case to exercise the powers under Section 482 Cr.P.C.

Accordingly, the present petition is allowed and the FIR is quashed against the present petitioners.

January 17, 2018
ps-l

(ANITA CHAUDHRY)
JUDGE

Whether Reasoned/Speaking
Whether Reportable

Yes/No
Yes/No