

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

CRM-M-38779-2016

Date of decision: 15.11.2018

Shakuntla Devi and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Ashdeep Singh, Advocate,
for the petitioners.

Ms. Rajni Gupta, Sr. DAG, Punjab.

Mr. Vipin Mahajan, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

1. This is a petition that has been filed by the petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 69 dated 05.05.2016 (Annexure P-1/T) under Sections 307, 323, 324, 34 IPC (Sections 498-A, 406 IPC added later on) registered at Police Station Mukerian, District Hoshiarpur and the subsequent proceedings arising therefrom.

2. In brief, the facts as alleged are that FIR No. 69 dated 05.05.2016 (Annexure P-1/T) under Sections 307, 323, 324, 34 IPC (Sections 498-A, 406 IPC added later on) came to be registered at Police Station Mukerian, District Hoshiarpur by the complainant with a view to

harass the petitioners. The complainant solemnized a married with Bhagat Singh, who is the son of petitioner Nos. 1 & 2 and brother of petitioner No.3. She got her statement recorded before ASI Harminder Singh Incharge of Police Post Bhangala on 17.09.2015 regarding an incident pertaining to 07.09.2015. It was alleged that she was attacked by her sister-in-law, who was holding knife in her hand and her mother-in-law also tried to throttle her neck and her father-in-law caught hold of her from her hair and abused her, on which she raised a noise and ran towards the gate. Her paternal aunt (Bhua), namely Asha Rani reached her house on her moped and by taking the moped she came towards Bhangalama in bazar near the vegetable shop of Kuldip Singh, who stopped her from going to the Police Station. Her Aunt got admitted her in the Civil Hospital, Mukerian where ASI Harminder Singh registered DDR No. 35 dated 17.09.2015 after giving the finding that a trivial quarrel took place between the parties and injury was found to be suspicious. As the injury was suspicious therefore, only offence under Section 323 IPC was found to be committed. However, an FIR No. 69 dated 05.05.2016 came to be registered under Sections 307, 323, 324, 34 IPC at Police Station Mukerian, District Hoshiarpur on the ground that the matter had been investigated on a complaint received on 02.05.2016 in which it was found that the allegations are correct. Aggrieved against the registration of the FIR, the instant petition has been filed.

3. Mr. Ashdeep Singh, learned counsel appearing on behalf of the petitioners, who are the parents-in-law and the unmarried sister-in-law of

the complainant argues that Bhagat Singh son of petitioner Nos. 1 & 2 solemnized a marriage with respondent No.2 on 20.03.2015 and thereafter left India for abroad. After seeing off the husband, the complainant returned to her matrimonial home and stayed there for a few days and then returned to her paternal home. She was unhappy with her marriage. She started occasionally visiting the matrimonial home for 1-2 days and returned back her parental home. On 04.09.2015, the complainant was brought back to her matrimonial home by the petitioners with the intervention of respectable persons and one Kuldeep Singh, who is a relative of the complainant. Thereafter, on 07.09.2015 an altercation took place between the complainant and her in-laws over the installation of a TV purchased by the father of the complainant, and false allegations were leveled. It is argued that the complainant has lodged this false FIR only on account of sheer harassment, since on a similar set of allegations a DDR had been registered pertaining to the same incident at Police Station Taragarh, District Pathankot. The matter was investigated and the Police after due investigation only invoked Section 323 IPC and got Rapat No. 35 dated 07.9.2015 registered. It is argued that the complainant approached the Women Cell by a complainant dated 15.09.2015 on the allegation that there was a demand of dowry and beatings (pertaining to the same incident which took place on 07.09.2015) suffered at the hands of the in-laws which was investigated and the ASI recommended that an offence was made out only against the husband and FIR No. 001 dated 13.01.2016 was registered at

Police Station Taragarh, District Pathankot. It is argued that the complainant in connivance with the police and after a gap of 8 months got the impugned FIR No. 69 dated 05.05.2016 registered under Sections 307, 323, 324, 34 IPC at Police Station Mukerian, District Hoshiarpur. It is argued that the present FIR has been registered after an inordinate delay of 8 months which itself shows that the allegations are trumped up with an motive of causing harassment.

4. Per Contra, Mr. Vipin Mahajan, learned counsel appearing on behalf of the complainant/respondent No.2 and Ms. Rajni Gupta, learned Sr. DAG, Punjab appearing on behalf of the respondent State argue that the complainant has rightfully got registered an FIR since an attempt had been made upon her life by her in-laws. It is argued that the incident in the two FIR's are different. It is submitted that the incident in FIR No. 69 dated 05.05.2016 is with regard to the injuries that were caused to her and that the FIR has rightly been registered on the basis of MLR issued by the Doctor of Civil Hospital. The complainant suffered injuries at the hands of the petitioners and also suffered multiple abrasions on the neck as an attempt was made to strangle her. Therefore, the offence under section 307 IPC is clearly made out. Whereas an FIR No. 01 dated 13.01.2016 registered at Police Station Taragarh is relating to the incident of demand of dowry and harassment. It is also argued that the petition is liable to be dismissed on the ground that charges have been framed and three witnesses have been examined by the trial court while also arguing that the petitioners

herein have not challenged the order framing charges.

5. I have heard the counsel for the parties and with their able assistance have also perused the paperbook and the pleadings.

6. The First question that needs to be addressed is whether the High Court can quash FIR in case a chargesheet already stands submitted in Court and witnesses have been examined. The answer to this question is in the affirmative. The High Court has inherent powers under Section 482 Cr.P.C. which can be exercised when it is found that the allegations are groundless or when in a given circumstances, continuation of the proceedings would tantamount to an abuse of process of law. In the case of ***State of Haryana and others vs. Bhajan Lal and others, 1992 Supreme Court Cases (Cri) 426***, the Apex Court has reiterated the principle that the Court can exercise its inherent jurisdiction of quashing a criminal proceeding only when the allegations made in the FIR/complaint do not disclose the commission of any offence and make out a case against the accused. 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 inherent 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 (ix) above. 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.”

7. As has been settled in judgements rendered by the Supreme Court, the High Court while exercising powers under section 482 Cr.P.C. has to be satisfied that the proceedings that have been initiated in the FIR are nothing but an abuse of the process of law.

8. In the instant case, respondent No. 2 i.e the complainant had

initially given a statement regarding an incident which took place on 07.09.2015. ASI Harminder Singh investigated the matter and had exonerated the petitioners vide DDR No 36 dated 03.10.2015. He investigated the matter and found that the allegations made were without substance. The MLR that had been conducted by the Civil Hospital, Mukerian was also looked into which reflected a total of 4 injuries, out of which injury No. 1 was sharp and injuries No. 2, 3 and 4 were written as blunt injuries. At that time the complainant had stated that a quarrel had taken place. It is only on 17.09.2015 that the complainant came to the ASI and got her statement recorded and asked for the registration of an FIR. A reading of the copy of Rapat No. 36 dated 03.10.2015, which is available on the Court file as Annexure P-5, would reveal that the allegations as set out in the statement of respondent No. 2 on 07.09.2015 were found to be unsubstantiated. The MLR conducted on 07.09.2015 at 2:25 PM would reflect that injury No. 1 was by a sharp weapon and suspicious in nature, whereas the other injuries were by a blunt weapon. The Panchayat that was convened clearly stated that it had not heard a word regarding the demand of dowry by the petitioners nor had any complaints been received by the Panchayat in this regard while further stating that allegations regarding inflicting injuries with knife by Balwinder Kaur are absolutely wrong. The complainant, thereafter, on very similar allegations of demand of dowry and pertaining to the incident that had occurred on 07.09.2015 alleging that beatings had been given to her and that she had suffered knife injuries,

approached the Senior Superintendent of Police, Pathankot by an application dated 15.09.2015. The matter was marked to Incharge Women Cell-2, Pathankot. These allegations were investigated by Inspector, Indu Bala who on a thorough investigation of the allegations regarding demand of dowry, car /or ₹ 5 lakhs, and also the beatings suffered at the hands of the petitioners looked into the MLR conducted on 07.09.2015 by the Civil Hospital Mukerian and came to the conclusion that no case is made out against father-in-law Malkiat Singh, mother-in-law Shakuntla Devi and sister-in-law Balvinder Kaur, the petitioners herein. An FIR was registered only against the husband, Bhagat Singh under section 498A IPC for demand of dowry, which case is pending.

9. What is pertinent to note that after the matter was investigated by the Women Cell, and it was recommended that a case be registered against Bhagat Singh, husband of the complainant under Ssection 498-A IPC, the matter was put up before the Senior Superintendent of Police and Commissioner of Police, Rural Pathankot who concurred with the said recommendation. Thereafter, an FIR No. 01 dated 13.01.2016 was registered at Police Station Taragarh.

10. What is interesting to note that after the registration of the FIR only against the husband under section 498A IPC at police Station Taragarh on 13.01.2016, the impugned FIR No. 69 dated 05.05.2016 came to be registered under sections 498-A, 306 323/34 IPC at Police Station Mukerian, District Hoshiarpur. The allegations as set out in the FIR are

similar to the allegations that had been made in the complaint filed before the Senior Superintendent of Police, Pathankot which matter was thoroughly investigated, and the petitioners herein exonerated. It is strange that on similar allegations the second FIR came to be registered at Police Station Mukerian, District Hoshiapur. A careful reading of the FIRs would reflect that the allegations therein are similar pertaining to the incident that occurred on 07.09.2015. However, there is a slight improvement made by the complainant while registering the FIR at Hoshiapur to try and invoke Section 307 IPC. It appears that the complainant being dissatisfied with the FIR being registered only against her husband by the police at Taragarh, District Pathankot, chose to approach the Police Station at Mukerian District, Hoshiapur. Once the matter has already been investigated thoroughly by the Women Cell at Pathankot and the report approved of by her seniors, getting a second FIR registered on similar allegations with a slight improvement of the incident that had occurred on 06.09.2015, would tantamount to nothing but an abuse of the process of law .

11. There is also question of delay in the registration of the impugned FIR at Mukerian District, Hoshiapur. The incident complained of pertains to 07.09.2015. Immediately thereafter, the complainant got her statement recorded before ASI Harminder Singh who on investigation on the same set of allegations came to the conclusion that it was a trivial quarrel between the parties, holding that only an offence of Section 323 IPC was made out. A complaint was also made to the Police Station at Pathankot

which was investigated and an FIR was registered on that date 13.01.2016 only under Sections 498-A IPC against the husband Bhagat Singh. It is only thereafter that the instant FIR came to be registered at Police Station Mukerian, District Hoshiapur after an inordinate delay of 8 months after the alleged incident is reported to have taken place. It is a settled principle of criminal jurisprudence that mere delay in lodging the FIR may not prove fatal in all cases, but in the given circumstances of a case, delay in lodging the FIR can be one of the factors which corrode the credibility of the prosecution version. Delay in the instant case is fatal, allowing the complainant to make marked improvement in the allegations so as to invoke Section 307 IPC. This appears to have been done when the complainant was unsuccessful in getting an FIR registered against the petitioners herein before the Police Station at Taragarh, District Pathankot.

12. It is an undisputed fact that there is now a growing tendency to involve the relatives of the husband in criminal cases by the wife or her parents once a marriage turns sour between the parties as has been noticed in the recent judgement of the Supreme Court in ***Preeti Gupta & Anr vs State Of Jharkhand & Anr., 2010(7) SCC 667***. This seems to be one of those cases.

13. Therefore, in view of what has been discussed above, this court has no hesitation in quashing FIR No. 69 dated 05.05.2016 (Annexure P-1/T) under Sections 307, 323, 324, 34 IPC (Sections 498-A, 406 IPC added later on) registered at Police Station Mukerian, District Hoshiarpur and the

subsequent proceedings arising therefrom qua the petitioners.

Petition stands disposed of accordingly.

15.11.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.