

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

CRM-M No.15351 of 2016

Date of decision: 21st November, 2019

Kirandeep Singh & another

... Petitioners

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. H.S. Bhullar, Advocate for the petitioners.

Mr. Harbir Sandhu, Asstt. Advocate General, Punjab
for the respondent No.1/State.

Mr. S.S. Behl, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C., petitioners Kirandeep Singh and his wife Karanjit Kaur (also referred to as Veerpal Kaur) have sought quashment of the FIR No.7 dated 09.03.2016 under Sections 498-A, 406 IPC pertaining to Police Station Women Cell, Ferozepur (Annexure P1).

The present case was got registered on written complaint of Suba Singh alleging that he performed marriage of his daughter Pawandeep Kaur, who was residing in Canada, with Ajanta alias Gurjant Singh Chahal on 14.03.2014. The petitioners happen to be sister-in-law (Nanad) of the daughter of complainant and her husband.

The allegations against the petitioners are that Karanjit Kaur alias Veerpal Kaur was given a gold set and Kirandeep Singh was given a

gold Kara on the marriage. It is alleged that at the marriage, a Toyota Fortuner car, TAG-HEUER watch worth ₹ 2.50 lacs, one gold Kara and chain to Ajanta Singh, Bangles and earrings to the mother-in-law, one gold Kara and gold ring to the brother, One gold Kara to Chacha and one gold Kara to Taya were given, claiming further that the family of the girl has spent more than ₹ 60.00 lacs at the marriage. The allegations harbour that the girl thereafter went to Canada where she delivered a boy on 07.12.2014 and asked her husband to send his papers so that his immigration could be brought about, but the boy refused and rather raised a demand of ₹ 30.00 lacs which the complainant side could not fulfill leading to registration of the present case.

Heard Mr. H.S. Bhullar, Advocate for the petitioners; Mr. Harbir Sandhu, Assistant Advocate General, Punjab representing respondent No.1/State; Mr. S.S. Behl, Advocate on behalf of respondent No.2 and perused the records.

The Supreme Court of India in '**State of Haryana and others v. Ch.Bhajan Lal and others**' 1992 AIR SC 604 has laid down broader principles on the basis of which an FIR could be quashed which are summarized as follows:-

- (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 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 a 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 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.

Reverting back of the present case, the allegations as have been spelled out by the counsel for the petitioners in his arguments are that there is only giving of one gold Kara and one gold set to each of the petitioners who are husband and wife and which falls within the terminology of gifts and cannot be termed to be Istridhan and therefore, the cause of demand of dowry and criminal breach of trust qua the same is not made out.

The same is sought to be controverted with much force and vehemence by Mr. Harbir Sandhu, Assistant Advocate General, Punjab assisted by Mr. S.S. Behl, Advocate representing the claimant/respondent No.2 arguing that being sister and brother-in-law of the principal accused Ajanta alias Gurjant Singh Chahal, the petitioners have been instrumental in raising demand and treating the victim with cruelty and thus, are not entitled to any relief.

Appreciating the submissions, it is duly acceded to during the arguments that petitioner Karanjit Kaur alias Veerpal Kaur happens to be the sister of victim's husband and petitioner Kirandeep Singh her husband, and the fact that both of them were married two years prior to the present marriage between the couple which has led to registration of the present case, and further that both of them are residing in Patiala at a distant and far-off place whereas the co-accused are residing at Moga. Furthermore, a perusal of the allegations contained in the FIR against the present petitioners shows that neither there is any allegation of having treated the victim with cruelty nor any other allegation which constitutes a criminal offence. Criminal breach of trust is defined in Section 405 IPC which is punishable under Section 406 IPC and provides that there should be entrustment to any person with property or dominion over property and that the person entrusted dishonestly misappropriates or converts to his own use that property or dishonestly uses/disposes off that property or willfully suffers any other person to do so in violation of any directions of law prescribing the mode in which such trust is to be discharged, of any legal contract made, touching the discharge of that trust.

A close look at the allegations shows that what was handed over to the petitioners was not the articles of Istridhan but were mere gifts given to them on account of their relationship with the family of the boy being sister and her husband. To the very specific query of the Court, learned counsel for the respondents could not convince what allegations

have come about that the accused were handed over the articles of Istridhan of the bride with a direction that they ought to return them back to the girl after the marriage and which were meant primarily for the use of the bride. None of these essential ingredients could be highlighted in the allegations and rather what one can perceive is that the complainant is trying to rope in the sister and her husband of Ajanta alias Gurjant Singh Chahal with the pure mala fide intention by way of arm-twisting tactic. Such like false allegations roping in the close relatives have become quite common and is nothing but a pure misuse of the process of the Court, against which the Courts need to safeguard the interest of the parties and ensure that the law is not put to misuse. Nothing could be pointed out by the respondent side which could bring about anything tangible against the petitioners to convince this Court that they too are prima facie accused of committing an offence. The allegations in the present FIR against the petitioners are nothing but an exceptional circumstance necessitating intervention by this Court by exercise of its inherent powers with the aid of Section 482 Cr.P.C. and thereby quashing the FIR (Annexure P1) and all consequences arising therefrom. The present petition stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

November 21, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No