

CRM-M-1738-2018 (O&M)
Date of Decision : 18.11.2019

Rana Partap Singh

.....Petitioner

versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Pawan Sharda, Senior DAG, Punjab
for respondent No.1-State.

Mr. N.S. Swaich, Advocate
for the complainant/respondent No.2.

FATEH DEEP SINGH, J.

Once again, the flagrant misuse of the processes of law, which was primarily enacted for the protection and welfare of the women has propped up its ugly head by virtue of which a case by way of FIR No.0005 dated 13.04.2017 (Annexure P-4) was got registered by the estranged wife against the husband and his

relatives. The petitioner-Rana Partap Singh, one of the victims of this case, has come up in this petition, under Section 482 Cr.P.C. seeking quashment of the FIR as well as processes issued thereunder by way of notice under Section 41 A of Cr.P.C. and Section 105 of Cr.P.C. The petitioner, who admittedly, happens to be maternal uncle of principal accused/husband-Pradeep Singh Mann and is residing in U.S.A., is alleged to have been entrusted with 08 gold rings along with accused/husband. It is the claim of the petitioner/accused that it was nothing but retaliation to the denial of U.S.A. visa to the complainant by the authorities, as a consequence of which, she could not migrate to U.S.A. and that the husband had secured divorce, subsequent thereto, claiming that neither, he has been assigned any specific role in the marriage nor any material allegations have come about, which are wholly vague and inherently improbable and, therefore, the relief in question.

The State in its response has alleged that the investigations are still underway and that, at the marriage, sufficient dowry was given and specific entrustment has been made of the articles of *Istridhan*, comprising of gold items to the petitioner and, therefore, in view of the allegations, no cause to quash the same is made out.

Upon hearing both the sides and on perusal of the records, no doubt, the authority of the High Court in the exercises of

powers under Section 482 Cr.P.C., are unbridled, with a view to prevent the violations of law and to secure the ends of justice, such powers can be put to use and there is no express provision at what stage of the proceedings, such powers under Section 482 Cr.P.C can be put to use.

In a judgment titled as '**State of Telangana versus Habib Abdullah Jeelani and others**', the Hon'ble Apex Court, while considering the ambit of powers under Section 482 Cr.P.C. and in one of the illustrations as to the situation, when such powers could be put to use, their lordships have held that where the allegations even if taken at its face value and accepted at their entirety, do not *prima facie* constitute any offence or make out the case, against any accused, such powers can be put to use. No doubt access to justice needs to be considered, where allegations have come about on such a score but at the same time, one cannot lose sight of the fact that there are *prima facie* allegations of entrustment of gold articles to the accused/petitioner and which is being investigated by the police. It needs to be kept in mind that whenever, an information is brought to the notice of the police, in a cognizable offence, the police is supposed to act into the information by registering an FIR. It is, subsequent thereto, upon investigations and collection of evidence, it may go in either way. However, as has been argued by the learned State counsel to rebut the contentions of learned counsel for the

petitioner that it is a pure misuse of the process by the disgruntled bride over her inability to migrate her abroad, the State counsel submits that it is a pure issuance of notice to the petitioner by the police under Section 41 of Cr.P.C. and in terms of Section 105 of Cr.P.C. by the concerned Magistrate to call for the petitioner and to join him in the investigations and adjudge the truthfulness and veracity of the allegations. The Coordinate Bench of this Court vide order dated 17.01.2018, had stayed the operation of this notice (Annexure P-6) and thus, an inordinate delay has been occasioned and which has certainly put to hold the investigations, is certainly discouraging for the administration of the justice.

At this stage, it would be too preposterous to comment on the very truthfulness of the allegations or as to the stand of the petitioner over these allegations which are subject to comprehensive investigations in the due course of time. No doubt, such provisions which are beneficial are being abused but it is only upon investigations, one can come across, what sort of evidence is there which is yet to be collected as the investigations of an offence is the field exclusively reserved for the police which can exercise its powers unfettered, however, in compliance of the provisions of the Code of Criminal Procedure. Thus, this Court is slow to show indulgence into the matter as curtailing the investigations would be counter-

productive to the administration of justice and thus, finding no merits, the present petition stands dismissed.

18.11.2019

Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No