

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

CRM-M No.19144 of 2017

Date of decision: 2nd September, 2019

Devi Lal & another

... Petitioners

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikas Bishnoi, Advocate for the petitioners.

Mr. Amrik Narwal, Dy. Advocate General, Haryana
for respondent No.1/State.

Mr. Karunesh Kaushal, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

Petitioners happen to be accused in case bearing FIR No.64 dated 18.03.2016 under Sections 498-A, 406, 323, 504, 506 IPC pertaining to Police Station City Mandi Dabwali, District Sirsa which was got lodged against them by their daughter-in-law Anita Rani wife of Ajay Kumar, son of the petitioners. The allegations are to the effect that marriage between the complainant and Ajay Kumar took place on 25.09.2006 where family of the girl had given sufficient dowry including gold, costly articles, cash as well as household items. The complainant further alleges that the accused had taken away these articles of Istridhan, which were meant for her use, by deception and thereafter did not allow her to use the same. The accused being unhappy with the articles of

Istridhan demanded more and as a consequence of which a matrimonial dispute arose leading to registration of the present case. It is against the lodging of the FIR, the petitioners have come about seeking quashment of the same.

The primary grounds that have come about are to the effect that the petitioners were residing separately from the complainant and her husband and thus, the entire allegations are figment of imagination of the complainant for a motivated cause. It is claimed that none of the petitioners have committed any offence and being aged persons, a false case has been got registered and therefore sought quashment of the same.

Upon hearing Mr. Vikas Bishnoi, Advocate representing the petitioners; Mr. Amrik Narwal, Dy. Advocate General, Haryana for respondent No.1/State; Mr. Karunesh Kaushal, Advocate on behalf of the complainant respondent No.2 and on perusal of the records. The position and principles of law as to the exercise of powers under Section 482 Cr.P.C. has been well enumerated by the Hon'ble Supreme Court in the case of '**State of Haryana and others v. Ch.Bhajan Lal and others**' **1992 AIR SC 604**, wherein following eventualities have been provided for:-

- (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.

Learned counsel for the petitioners could not convince this Court how or in what manner case of the petitioners is squarely covered by the above ratio and therefore, has failed to controvert the submissions of learned counsel for the complainant respondent Mr.Karunesh Kaushal, Advocate. No doubt such criminal provisions lately have come to much disrepute for their misuse but at the same time, the Court has to adjudge the balance which can only be adjudicated by means of trial. The claim that the parents were residing separately from the complainant and her husband or that none of the articles have been specifically handed over to them and therefore they cannot be the perpetrators of this crime for

having usurped the articles of Istridhan, are matters of evidence which can be gone into only at the time of trial. This Court is certainly not inclined to show indulgence to the claim of the petitioners and there being no merit, the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

September 2, 2019
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No