

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

**CRM-M No.14263 of 2019 (O&M)
Date of decision : November 19, 2019**

Smt. Neeta Khullar and another Petitioners

Versus

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Anupam Sharma, Advocate for the petitioners.

Ms. Brijesh Sharma, AAG, Haryana
assisted by ASI Suresh Kumar.

GURVINDER SINGH GILL J. (ORAL)

1. Petitioners have approached this Court seeking quashing of FIR No.0102, dated 06.03.2019, under Sections 323, 34, 406, 498-A and 506 IPC, registered at Police Station Kaithal City, District Kaithal.
2. Reply has been filed on behalf of the State and copy thereof has been furnished to the counsel for the petitioners, who has submitted that she is ready to argue the matter.
3. Petitioners are the father-in-law and mother-in-law of the complainant. The complainant in the FIR has alleged that her marriage was solemnized with Saurabh Khullar on 08.02.2015 and that her family had spent an amount of Rs.60 lacs on marriage as per demand of her husband Saurabh Khullar, her father-in-law Virender Khullar and mother-in-law Neeta Khullar. It is alleged that an amount of Rs.15 lacs was spent on purchase of jewellery and clothes apart from other expenditure. Immediately after marriage, the complainant went to stay with her in-laws at Prasad Nagar, Delhi. It is also

alleged that accused, however, started pressing upon demand of dowry in the shape of a big car and a cash amount of ₹ 20 lacs. When the complainant's husband, who was working in Merchant Navy went sailing, his parents turned out the complainant from her matrimonial home and she was forced to live in another house at Patel Nagar, Delhi. It is further alleged that after about 2 months when her husband returned back from ship, he did not come to the complainant's house but went to his parents' house and his mother started demanding that the complainant should pay installments for their car. It is further alleged that even during the period of two months when her husband stayed in Delhi, he did not care for her and even gave beatings to her and in February, 2016, he went back to ship for his work without even informing the complainant.

4. It is alleged that in January 2017, Saurabh after returning back from sailing called the complainant to his father's house where she was told that if a flat worth Rs.80 lacs is purchased in Mumbai then she can live happily there with her husband and also forced her to pay an amount of Rs.25 lacs in cash, 5 lacs through bank and also forced her to raise a loan of Rs.30 lacs from bank. It is alleged that despite payment of substantial amount by complainant, the flat was purchased in the name of her mother-in-law, Saurabh and complainant to the extent of 1/3rd share each. However, despite purchase of said flat, the complainant was never taken to Mumbai. It is further alleged that all her articles are lying in the house at Patel Nagar, Delhi which is locked and she is not permitted to enter there and is presently residing at Kaithal with her mother although she is working in Gurgaon.
5. Learned counsel for the petitioners has submitted that it is a case of some

matrimonial discord between complainant and her husband and that the petitioners, who are the parents of the complainant's husband have been implicated falsely and in fact even as per FIR it is made out that complainant had been residing separately from the petitioners.

6. Learned counsel for the petitioners further submits that the allegations as levelled in the FIR have all been cooked up and that although it is alleged that complainant was being forced to pay the installments of their car but in fact, the installments were being paid regularly by the mother-in-law i.e. petitioner No.1. A prayer has thus been made for quashing of the FIR.
7. Opposing the petition, learned State counsel has submitted that the matter has been investigated by the police and the allegations have been found to be substantiated and challan has been presented against the complainant's husband and parents-in-law. Learned State counsel has further submitted that in any case a perusal of the FIR clearly shows that allegations of demand of dowry have been levelled and that in fact, immediately after marriage the petitioners and the complainant were residing together but it was subsequently that the complainant was forced to live separately on account of the conduct of her husband and the petitioners. It has thus been prayed that since the allegations clearly spell out offences under Sections 323, 34, 406, 498-A and 506 IPC, no case for quashing of the FIR at the threshold is made out and that the petitioners would in any case be at liberty to lead any defence during the course of trial
8. I have considered the rival submissions addressed before this Court. A perusal of the FIR would indeed show that specific allegations have been levelled regarding her harassment by the petitioners as well as by her

husband. Although, it has been contended on behalf of petitioners before this Court that the petitioners have been residing separately but from the FIR it is evident that it was at a later stage when complainant's husband, who is working in Merchant Navy went sailing in connection with his job that she was thrown out from her matrimonial home and forced to reside separately. The contention of the petitioners' counsel that it was petitioner No.1, who had been paying the installments of the car and that they had never forced the complainant to pay the installments is a matter which can be decided only after evidence is led by the parties. Hon'ble the Supreme Court in ***“State of Haryana vs. Bhajan Lal”, 1992 Supp(1) Supreme Court Cases 335*** enumerated the categories of cases where inherent powers under Section 482 Cr.P.C. could be exercised for quashing FIR 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 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 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.”

It was further held therein as follows:

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

9. In another recent case *Dineshbhai Chandubhai Patel Vs. State of*

Gujarat, (2018) 3 SCC 104 the Hon'ble Supreme Court held as follows:

“29. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.

30.

31. In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.”

10. In view of the aforesaid discussion and in the light of ratio of ***Bhajan Lal's*** case (*supra*), this Court is not expected to embark upon some kind of preliminary trial at this stage to test the veracity of allegations levelled in FIR, which otherwise disclose the ingredients of offences alleged to have been committed. Consequently, no case is made out for quashing of FIR. The petition is sans merit and is dismissed.

November 19, 2019

sarita

Whether speaking / reasoned :

Whether Reportable:

Yes / No

Yes / No

(GURVINDER SINGH GILL)
JUDGE