

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-34699 of 2017 (O&M)
Date of decision : August 27, 2019

Kashmir Singh and others

....Petitioners

versus

State of Punjab and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Nitin Rampal, Advocate, for the petitioners

Mr. Harbir Sandhu, AAG, Punjab for respondent
no. 1/State

None for respondent no. 2

Fateh Deep Singh, J. (Oral)

The petitioners are father-in-law, mother-in-law and brother-in-laws of complainant respondent no. 2 Amarjit Kaur and have sought through this petition under Section 482 of the Code of Criminal Procedure quashment of FIR No. 14 dated 14.4.2015, under Sections 498-A, 406 IPC, Police Station Women Ferozepur, Annexure P/1 and all consequences arising therefrom.

Heard counsel for the parties and perused the records.

As is fairly conceded by the two sides the marriage between complainant Amarjit Kaur and Surinder Singh was solemnized on 26.6.2009 and the couple was bestowed with one male child and two female children who all are minors. The wife claims that at the marriage sufficient dowry articles were given by her parents but the accused on account of their demand and lust for more dowry articles raised demand of motorcycle and other costly items and which led to matrimonial disaccord between the complainant and the accused. The wife claims compromises were effected before the Panchayats but to no avail and she has been thrown out of her matrimonial home and her articles of Ishtridhan were usurped by the accused.

Learned counsel for the petitioners submits that on bare perusal of the FIR there is no specific case of entrustment of any Ishtridhan has been made nor of any embezzlement is specifically attributed to any of the accused. It is the stand of the petitioner that the lodging of the present FIR is misuse of the process of the law wherein all the family members of the husband side have been implicated in a false case and that the petitioners had disowned Surinder Singh and the latter was residing separately from his family

and thus sought quashment of the same. The same is sought to be refuted with much force and vehemence by learned State counsel arguing that it has very well come in the investigations which are well reflected in the FIR that Fridge, T.V., Fan, Quilts, Carpet, Bed-sheets, Pillows, Utensils, Gold, Bed etc. were given at the wedding but the accused were demanding motorcycle on account of which matrimonial dispute arose between the parties. It is urged that prima facie allegations are reflective of the commission of the offence and therefore, there was no necessity and urgency to quash the proceedings wherein after recording of the evidence there would be due appreciation of the stands of the parties.

Hon'ble Supreme Court in the case of '**State of Haryana and others v. Ch. Bhajan Lal and others, 1992 AIR SC 604**' have laid down the following proposition for exercise of powers under Section 482 Cr.P.C.:-

- (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.

From the FIR Annexure P/1, it is very much illustrative that in the investigations it has come as to giving of articles of dowry and which was on account of demand of motorcycle the couple has fallen apart leading to the registration of the present case. It is well enunciated law that FIR is not encyclopedia where each and every detail has to be spelt out to the hilt and it is the evidence on the basis of which it has to be adjudged as to the allegations and their due proof. The very worth of disinheritance notice Annexure P/2 is a mere publication in a newspaper which is not registered as Surinder Singh son of Kashmir Singh who being son is entitled to inherit the estate of his father cannot be disinherited by such a publication in a newspaper and can be done so only by a registered deed of disownment and disinheritance. More-so mere ration card Annexure P/3 would not suffice the purpose as the same is a mere proof of grant of ration by the Food and Supplies Department and cannot be construed to hold that the accused-petitioners were residing

separate from the principal accused Surinder Singh. Moreover it is during the course of trial after evidence comes, the very legal worth of such documents can be looked into by the court. Since there are prima facie allegations of demand of dowry, harassment and cruelty and since offence under Section 498-A IPC is a continuing offence and therefore, no cause is made out for exercise of inherent powers of the Court under Section 482 Cr.P.C. for quashment of the FIR and proceedings arising therefrom. This Court is not inclined to accept the prayer of the petitioners. Finding no merit, the present petition stands dismissed.

August 27, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No