

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

CRM-M No.38882 of 2016

Date of decision: 30th October, 2019

Ritu Jaglan & others

... Petitioners

Versus

Er. Bichha Ram Chaudhary & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Parminder Singh, Advocate for the petitioners.

Mr. Kanwaljit Singh, Senior Advocate with
Mr. Nirav Sharma, Advocate for respondent No.1.

Mr. Ripudaman, Asstt. Advocate General, Haryana
for respondent No.2/State.

FATEH DEEP SINGH, J.

The brief facts that have led to this petition under Section 482

Cr.P.C., are as follows:-

Er. Bichha Ram Chaudhary, father-in-law of petitioner Ritu Jaglan, the latter happens to be the daughter of petitioner No.2 and sister of petitioner No.3, filed a private criminal complaint under Sections 469, 500, 506, 452, 341, 323, 143, 147, 149 IPC before the Court of learned Chief Judicial Magistrate, Karnal. The brief allegations of the complainant are that he along with his wife Phoolwati was residing in house situated in Urban Estate, Karnal which is exclusive ownership and in possession of the complainant. He claims that he was aged around 69 years (at the time of filing the complaint) and has retired from Irrigation Department, Haryana as an Executive Engineer. It is alleged that one of

the sons of the complainant namely Dr.Satvinder Singh Chaudhary was married to accused petitioner Ritu Jaglan alias Ritu Chaudhary on 28.03.2004 but no child was born to the couple. During the course of time, a matrimonial dispute erupted between the couple and as a consequence of this multiple litigation between the two sides, the present complaint was filed by father of the husband of Ritu Jaglan alias Ritu Chaudhary. The allegations in brief are that Ritu Jaglan had been treating them with cruelty and due to her matrimonial disaccord, she has left her dowry articles regarding which the complainant has served a legal notice upon his daughter-in-law to take back her articles. It is alleged that on 22.10.2013 when the complainant along with his wife was standing at the gate of his house around 7:00 p.m., accused No.1 to 4 namely Ritu Jaglan, Kamla Jaglan, Pardeep Jaglan and Ishwar Singh in one car and the accused No.5 to 7 namely Amit, Lachhman and Jasbir in another car were roaming outside their house and apprehending that some incident might occur, the complainant and his wife went into their house. The accused No.1 to 4 started giving them abuses whereas the remaining accused No.5 to 7 thrashed the complainant and his wife, and in the process it is alleged that the accused ransacked their home. Hearing commotion, people gathered which led to the accused fleeing from the spot. The complainant claims that he approached the police for initiating action and which led to filing of a criminal case in which directions were issued under Section 156(3) Cr.P.C. leading to registration of a case bearing FIR No.1012 dated 07.12.2013 under Sections 469, 500, 506,

452, 341, 343, 143, 147, 149 IPC at Police Station Civil Lines, Karnal. During the course of investigations, police filed cancellation report and it is thereafter, the complainant upon notice filed a protest petition before the Court of learned Chief Judicial Magistrate, Karnal who vide orders dated 23.08.2016 (Annexure P9) after examining SI Brahm Sarup CW1, complainant Bichha Ram CW2 and Pardeep Chaudhary CW3, and examining documents Ex.C1 to Ex.C15, held that there was sufficient evidence to summon accused No.1 to 3 namely Ritu Jaglan, Kamla Jaglan and Pardeep Jaglan as accused. The accused petitioners have assailed these findings.

Heard Mr. Parminder Singh, Advocate for the accused petitioners; Mr. Kanwaljit Singh, Senior Advocate assisted by Mr.Nirav Sharma, Advocate representing the complainant respondent No.1; Mr.Ripudaman, Assistant Advocate General, Haryana on behalf of respondent No.2 State and perused the records of the case.

The primary grouse that has been canvassed on behalf of the petitioners is that being a matrimonial disaccord the wife had lodged different cases under the law and that the police had already found the petitioners innocent in the case lodged by disgruntled father of the estranged husband and therefore apparently is nothing but a counterblast to the cases of the wife with the motive to restrain her from asserting her right under the law. The submissions have been controverted on behalf of the respondent complainant by his counsel Mr.Kanwaljit Singh, Senior Advocate assisted by Mr. Nirav Sharma, Advocate as well as learned

State counsel Mr. Ripudaman, Assistant Advocate General, Haryana on the grounds that it is well reflected from the evidence and the records that the accused after having criminally trespassed into the house of the complainant had assaulted him and his wife which is reflected from the medico legal report and therefore no ground exists for this Court to exercise these powers.

Appreciating the submissions, it is there before this Court that the parties are well embedded in fighting various litigations, civil as well as criminal and thus, it would be too preposterous to hold at this juncture without there being any evidence before this Court that the present case is a counterblast to the case of the accused petitioners earlier filed against the in-laws of the petitioner wife. The fact that police had held the accused petitioners innocent in the FIR got lodged by the present complainant with the aid of Section 156(3) Cr.P.C., is a matter to be determined on the touchstone of evidence. This Court places reliance on **‘Prashant Bharti vs. State (NCT of Delhi) (2013) 9 SCC 293**, where following proposition has been laid down by their Lordships of Hon’ble the Supreme Court of India:-

“22. The proposition of law, pertaining to quashing of criminal proceedings, initiated against an accused by a High Court under Section 482 of the Code of Criminal Procedure (hereinafter referred to as “the Cr.P.C.”) has been dealt with by this Court in ‘Rajiv Thapar & Ors. vs. Madan Lal Kapoor’ (Criminal Appeal No..... of 2013, arising out of SLP (Crl.)

no.4883 of 2008, decided on 23.1.2013) wherein this Court inter alia held as under:

29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 of the Cr.P.C., if it chooses to quash the initiation of the prosecution against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 of the Cr.P.C., at the stages referred to hereinabove, would have far reaching consequences, inasmuch as, it would negate the prosecution's/ complainant's case without allowing the prosecution/ complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 of the Cr.P.C. the High Court has to be fully satisfied, that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such, as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such, as would clearly reject and overrule

the veracity of the allegations contained in the accusations levelled by the prosecution/ complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/ complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.”

The exercise of powers under Section 482 Cr.P.C. has been well laid down 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.

Applying the test as laid down in **Prashant Bharti's case** as well as **Ch. Bhajan Lal's case** (ibid), there is nothing suggestive as pointed out by learned counsel for the petitioners that the stand of the accused petitioners is sound, reasonable and is of impeccable quality or that the petitioners have brought to the notice of this Court substantial material which would rule out the allegations of the complainant against them, and that the stand of the petitioners could not be displaced by the complainant side and by such a resort to the process has resulted in abundant misuse of the process of the Court and to undo the same necessitates to meet the ends of justice indulgence by this Court by exercise of its inherent powers. None of these essentialities could be brought before this Court and stir the judicial conscience for persuading it to invoke its jurisdiction and thus quash the criminal proceedings. Moreover, the points that have been canvassed, are matters of evidence and cannot be judiciously adjudicated at this juncture. The mere fact that there has been pending litigation, civil as well as criminal, between the

parties over this matrimonial disaccord and that one or the other party had instituted these cases prior in time, are matters of evidence to be adjudicated on the touchstone of the same. This Court does not feel it appropriate to exercise these powers under Section 482 Cr.P.C. and thus, finding no merit, the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

October 30, 2019
rps

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