

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-41627 of 2016 (O&M)
Date of decision : November 21, 2019

Ramesh Kumar and others

....Petitioners

versus

State of Punjab and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Inderjeet Sharma, Advocate, for the petitioner
Ms. Sakshi Bakshi, AAG, Punjab for the State/
respondent no. 1
Mr. SS Gill, Advocate, for respondent no.2

Fateh Deep Singh, J. (Oral)

This petition under Section 482 Cr.P.C. has come about by Ramesh Kumar father, Pooja Suri mother, Ajay Suri elder brother, Rajni sister and Sonu Kukreja sister's husband of Vikas Suri husband of complainant respondent no. 2 Madhu seeking quashment of FIR No. 47 dated 22.9.2016 under Sections 406, 506, 498-A IPC, Police Station Kalnaur, District Gurdaspur and all proceedings arising therefrom.

Heard Mr. Inderjeet Sharma, Advocate, for the petitioner; Ms. Sakshi Bakshi, AAG, Punjab for the State/respondent no. 1; Mr. SS Gill, Advocate, for respondent no.2 and perused the records.

The case detailed above was got registered by the complainant estranged wife and the brief allegations are to the effect that marriage between the complainant and Vikas Suri took place on 6.2.2014. The wife has claimed that different gold items, costly house hold articles and cash was given at the marriage (which need not be reproduced here for the sake of brevity) to the accused. However, the accused including the husband were not happy with the same and misappropriated her articles and consequent thereupon the present case was got registered. A close look at the FIR which is a document first in point of time and which is very foundation of the case of the complainant over which the complainant is supposed to raise its citadel. The same shows that there are only general, vague and ambiguous allegations. There is no specific entrustment of any of the articles of Ishtidhan to any of these accused-petitioners nor there is any allegation that they have embezzled the same and refused to return back these articles which were meant for the exclusive use of the bride the complainant. It is the own case of the wife that the in-laws are residing in Jagadhari

(Yamuna Nagar) whereas petitioner no. 4 and her husband petitioner no. 5 are residing at Yamuna Nagar and the latter were married much prior to marriage of the complainant and since then were residing separately. The husband is residing at Kapurthala where he was employed and where too the complainant wife had put up after the marriage. In light of the same the material question arises how the articles of Ishtridhan have come about in possession of the in-laws. There are only vague allegations that the dowry articles are lying in the custody of the in-laws who did not allow her to use and misappropriated it. It is highly unacceptable as has been sought to be argued by the petitioners side and failed to be countered by the respondents counsel including the State counsel. How it is on the face of it probable and plausible when accused are residing in two distinct and different towns and so is the case of the complainant and her husband and in the absence of any specific positive cogent evidence of having handed over which of the articles of Ishtridhan to which of the accused it would be preposterous proposition to accept the contention of the learned State counsel. More-so it is well settled proposition of law that gifts given at the wedding do not fall within the terminology of Ishtridhan. Only articles which are given to the bride for her exclusive use after the marriage

fall under such a head. What one can perceive from the allegations are nothing but the couple had fallen apart after the marriage and that is how such allegations and insinuations have been given birth to each and every allegations that are enumerated in the FIR are apparently unsubstantiated, unpalusible and without finer details when, how and where the same happened. The accused are being prosecuted for cruelty and the counsel for the respondent side could not pin point any single instance of substantive nature to prove either any act of mental cruelty or of physical any act which tantamounts to criminal intimidation and similarly as to the allegations of embezzlement. It is a matter of common knowledge that now a days it is becoming a way of life for the estranged wife to lodge such a complaint not only against the husband and the in-laws but all nears and dears and the present case is no exception to it. It is where from the allegations this Court confidently holds out that neither any prima facie offence is made out against accused-petitioners even if they remained uncontroverted and further on the face of it appears to be highly improbable, baseless and absurd and therefore, are manifested with falsehood. This Court seeks support from **'State of Haryana and others v. Ch.Bhajan Lal and others'** 1992 AIR SC 604, where their Lordships while

considering the ambit of Section 482 Cr.P.C. had laid though not exhaustively but only illustrative the situation in which the same can be exercised, which are 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 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.

In the light of what has been detailed and discussed above, the present proceedings are nothing sort of misuse of the process of the court against innocent relations of the husband resulting in gross miscarriage of justice and therefore, needs to be

set aside by way of allowing the present petition. Consequently, the FIR and all the proceedings arising therefrom are hereby quashed qua the present petitioners only.

The present petition stands disposed of.

November 21, 2019

(Fateh Deep Singh)
Judge

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Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No