

**In the High Court for the States of Punjab and Haryana  
At Chandigarh**

CRM-M-22518-2019 (O&M)  
Date of Decision:- 5.8.2019

Rahul Jain

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Sourabh Jain, attorney holder for petitioner-Rahul Jain.

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**GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner through his attorney Sourabh Jain has approached this Court seeking quashing of FIR No. 34, dated 9.3.2019, Police Station Women Police Station, District Gurgaon, under Sections 354-A, 354-D and 506 IPC.
2. The FIR in question was lodged at the instance of Manju wife of late Sh. Ranjit Singh, aged 72 years, wherein it has been alleged that Rahul Jain had been using filthy language over the phone and on “WhatsApp” audio and video calls and had threatened to kill her and her entire family. The complainant alleged that her daughter-in-law

had solemnized a marriage with Rahul Jain without getting the marriage with complainant's son dissolved. It is alleged that Rahul Jain wanted to eliminate the complainant and her son and was threatening complainant's son to divorce his wife.

3. The attorney for the petitioner has submitted that the present case is a case where it is the petitioner's wife, who was in fact already married to complainant's son, who had played a fraud upon the petitioner and had married the petitioner while concealing the factum of her marriage to the complainant's son. It has further been submitted that the complainant admits the factum of the previous marriage of petitioner's wife in the FIR itself and that apparently the present FIR had been got lodged in order to pressurise the petitioner to divorce complainant's daughter-in-law.
4. I have considered the aforesaid submissions. A perusal of the FIR would reveal that the complainant has levelled specific allegations regarding the petitioner having threatened the complainant. Although, it may be said that offences under Sections 354-A and 354-D IPC may not be attracted in the present case but the allegations, in any case, would *prima facie* constitute offence punishable under Section 506 IPC. The contention of the petitioner that in fact the FIR has been lodged falsely to pressurize the petitioner to divorce the complainant's daughter-in-law or that it is the complainant's daughter in law who had cheated the petitioner cannot be gone into at this stage. A reference in this context has been made by Hon'ble the Supreme Court in State of Haryana Vs. Bhajan Lal, 1992 Supp (1)

SCC 335 enumerated the categories of cases where inherent powers under Section 482 Cr.P.C. could be exercised for quashing FIR as follows:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (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.”

5. 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.”

6. 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.”

7. The aforesaid position has again been reiterated by Hon'ble the Supreme Court in a very recent judgment delivered on 31.7.2019 in Criminal Appeal No.1082 of 2019 Chilakamarthi Venkateswarlu and another Vs. State of Andhra Pradesh and another wherein it has been held as follows:

- “15. In exercising jurisdiction under Section 482 it is not permissible for the Court to act as if it were a trial Court. The Court is only to be *prima facie* satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate materials and documents on record, but it cannot appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused.
16. The High Court should not, in exercise of jurisdiction under Section 482, embark upon an enquiry into whether the evidence is reliable or not, or whether on a reasonable appreciation of the evidence the allegations are not sustainable, for this is the function of the trial Judge.....”

8. In light of ratio of the above cited judgments and while noticing that there are specific and categoric allegations against the petitioner, constituting offence including offence under Section 506 IPC, no case for grant of quashing of the FIR is made out.
9. The petition is sans any merit and is hereby dismissed.

10. Since, during the course of arguments Sh. Sourabh Jain, attorney of the petitioner has submitted that there could be chances of amicable settlement and that a petition under Section 9 of the Hindu Marriage Act is also pending, it will certainly be open to the parties to approach the Mediation and Conciliation Centre, in the Courts where litigation is pending to make an attempt to resolve the matter amicably.

**August 5, 2019**

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**( GURVINDER SINGH GILL)  
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No