

CRM-M-956-2016

Date of Decision : 04.09.2019

Sanjeev Kumar

.....Petitioner

versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Mandeep Singh Bedi, Senior Advocate with
Mr. Sidhant Mehra, Advocate
for the petitioner.

Mr. Harbir Sandhu, Asstt.A.G., Punjab
for respondent No.1-State.

Mr. Karamjit Singh, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

The petitioner who happens to be an accused in a case got registered by way of FIR No.06 dated 12.01.2013 under Sections 498-A, 406 & 420 of the Indian Penal Code registered at Police Station Majitha, District Amritsar (Rural) (Annexure P-5) has come up before this Court in this petition filed under Section 482 Cr.P.C. seeking quashment of the FIR and all consequential proceedings that

arises out of it.

The primary grounds that have been canvassed and pleaded are that marriage between the petitioner-Sanjeev Kumar and the complainant's daughter, namely, Neetu Bala, was solemnized in the year 2001. It is alleged that in the year 2009, the wife of the petitioner left her matrimonial home in Italy regarding which, report was lodged by the petitioner's side and after the wife failed to resume cohabitation, the petitioner filed a petition for judicial separation/divorce in a Court in Italy. It is the claim of the petitioner that the wife surreptitiously, through her father/complainant-Surinder Pal Sharma has got lodged this FIR on false and twisted facts. The petitioner had sought quashment of the FIR on the grounds that after 12 years of matrimonial relationship, the allegations have come about which are vague and ambiguous and that the same are highly unpalusible and are rather counter-blast to the judicial proceedings got initiated by the petitioner/husband against the wife in a Court in Italy and, thus, has sought the quashment.

Upon hearing learned counsel of both the sides and on perusal of the records, it is duly stand of the petitioner/husband admitting the marriage and marital disaccord between them. The claim that it is after 12 years of the marriage, the allegations have come about, it needs to be reiterated her that offence under Section 498-A of the Indian Penal Code is a continuing offence and, therefore, does not gives any impetus to the case of the petitioner on

that score. No doubt with the upsurge in matrimonial litigation, the Courts need to be on guard to adjudge the allegations on the touch stone of truthfulness and veracity. The claim that the in-laws have been left off hook of this Court vide judgment/order dated 12.10.2015 holding that proceedings against him needs to be quashed as the story is concocted, does not brings about much solace to the petitioner/husband. A close look at the allegations bear out in detail, the manner in which the complainant's daughter was physically as well as mentally tortured and demand of dowry was raised by the accused side. Specific instances have come about how to soothen the behaviour of the accused side, the parents of the girl were forced to dole out money for ensuring that their daughter was not unduly put to harassment by the accused side. It is the categoric stand of the complainant's side that the accused/husband had deceived the daughter of the complainant and after she became pregnant, left her in a lurch and after she gave birth to a child and there was no one to look after her and the accused side having snatched her passport and another vital documents, the desolate lady and her minor child were left in the Government asylum in Italy. The petitioner, as per the stand of the State, in their submissions has been declared as a proclaimed offender on 27.11.2013 by the Court of the learned Judicial Magistrate 1st Class, Amritsar. Thus, even by that score, having fled from justice, declared as a proclaimed offender in view of the settled proposition of law is not entitled to any such relief and

audience of the Court by virtue of Section 482 Cr.P.C. reliance placed on **Lavesh Vs. State, (2012) 8 SCC 730** the fact that has been much agitated by the petitioner's side that co-accused/parents of the petitioner have been granted this relief does not *ipso facto* entitles the petitioner to the same treatment. There are specific allegations against the petitioner/husband and the fact that the claim of the petitioner of delay, criminal case being a counter-blast to his matrimonial case and that it was a vague and ambiguous allegations which matters of evidence to be adduced at the trial.

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 vs. 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.*

In light of the same and the fact that provisions of Section

482 Cr.P.C. are to be sparingly used to meet the ends of justice and this Court does not feel inclined to show any interference, the petition being hopelessly without merits, stands dismissed.

The records be immediately send back with the directions to the learned Trial Court to proceed ahead into the matter, expeditiously, in accordance with law.

04.09.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No