

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

**CRM-M No.53254 of 2019**

Date of decision: 18<sup>th</sup> December, 2019

Surinder Pal Singh Bhogal & another

... Petitioners

Versus

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Sudesh K. Khurcha, Advocate for the petitioner.

**FATEH DEEP SINGH, J.**

The petitioners Surinder Pal Singh Bhogal and his mother Hardish Kaur Bhogal, who are accused in case bearing FIR No.16 dated 10.08.2019 under Sections 406/498-A IPC pertaining to Police Station NRI, Shaheed Bhagat Singh Nagar, have sought quashing of the FIR and subsequent proceedings arising thereof by virtue of Section 482 Cr.P.C.

Heard Mr. Sudesh K. Khurcha, Advocate for the petitioners and perused the records.

The brief background leading to registration of the present case is that the petitioner Surinder Pal Singh Bhogal is residing in Australia and petitioner Hardish Kaur Bhogal happens to be his widowed mother. The present case was got registered by complainant Amrit Singh alleging that his daughter Arvinder Kaur and petitioner Surinder Pal

Singh Bhogal entered into a wedlock and prior to which the accused son and mother had arrived in India from Australia and it was decided to solemnize the marriage in Australia. During the course of interaction, the complainant alleges that as per the demand of the accused they gave gold ornaments worth ₹16/17 lacs to the accused petitioners besides Damanvir Bhogal (younger brother), Harpreet Kaur Bhogal (sister) and her husband Gurpreet Singh Hunjan on the pretext that they would make payment in respect of the same after some time. It is alleged that after the marriage, the accused started harassing and torturing the daughter of the complainant on account of demand of dowry and even physically abused her. While the daughter of the complainant was pregnant, she was pushed by her mother-in-law and as a consequence of which she suffered injuries and remained admitted in hospital leading to her miscarriage. The physical and mental torture of daughter of the complainant continued and thereafter the couple came to India on 21.02.2018 where too daughter of the complainant was ill-treated by the husband who in fact was a divorcee, and on account of whose conduct and that of his mother the girl had gone into depression. It is thereafter while in India the accused had demanded 2.00 lacs Australian Dollars to facilitate requirement for some work and when the complainant failed to fulfill the same, the accused

Surinder Pal Singh Bhogal left his wife in India and flew back to Australia and thereafter refused to take her back leading to registration of the present case.

Appreciating the submissions, the Supreme Court of India in **‘Central Bureau of Investigation v. K.M. Sharan’ 2008(4) SCC 471** has laid down the principle that while exercising its powers under Section 482 Cr.P.C. the High Court is not justified in exercising its jurisdiction in evaluating the evidence to hold out whether the allegations were correct or reliable, and furthermore in the case of **‘State of Haryana and others v. Ch.Bhajan Lal and others’ 1992 AIR SC 604**, the Apex Court has laid down the following propositions to enable the Court to exercise its extraordinary powers under Section 482 Cr.P.C. as well as Article 226 of the Constitution of India:-

- (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.

The prima facie allegations and a bare perusal of the FIR (Annexure P2) reflects that on 23.04.2017 the accused petitioners have visited State of Punjab (India) and made arrangements for marriage to be solemnized in Australia where the accused were residing. There is specific allegation raised by the complainant that Hardish Kaur Bhogal along with her son Surinder Pal Singh Bhogal on the pretext of this marriage raised a demand of gold ornaments worth ₹ 16/17 lacs which the complainant alleges that on account of compulsion he was forced to meet out this demand. All these gold ornaments were for their family, the younger brother of Surinder Pal Singh Bhogal, his sister and brother-in-law. The accused have taken away these gold ornaments along with them to Australia and thereafter demand of more money was raised and the complainant sent ₹ 1.40 lacs in September 2018.

The Supreme Court of India in '**Rupali Devi v. State of Uttar Pradesh & others**' (Criminal Appeal No.71 of 2012 decided on

**09.04.2019)** have clearly laid down that the place where the victim of a matrimonial offence resides has territorial jurisdiction to entertain, try and dispose off the allegations. Furthermore, Section 180 Cr.P.C. lays down that whenever an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the previous and subsequent offence can be looked into and tried by the same very Court in whose jurisdiction either of the act was done. Furthermore, Section 181 Cr.P.C. provides that where offences are of such a nature including criminal misappropriation and criminal breach of trust, can be inquired into and tried by a Court within whose local jurisdiction the offence was committed or any part of the property, which is subject of the offence, was received or retained or was required to be returned or accounted for by the accused person.

To the very specific query of this Court, learned counsel for the petitioners could not convince this Court as to lack of allegations that have come up in the FIR necessitating intervention by this Court. Besides, the well entrenched law in '**State of Bihar and another v. P.P. Sharma and another**' 1991 AIR (SC) 1260, where the Supreme Court discussing the eventualities where exercise of powers under Section 482

Cr.P.C. can be made, as a mark of caution has laid down the proposition that Courts should be slow in quashing criminal proceedings when the investigations are still underway.

Reverting back to the instant case, neither the averments as to the lack of territorial jurisdiction nor on merits call for exercise of inherent powers of this Court with the aid of Section 482 Cr.P.C. There being no cause to show indulgence, the petition being hopelessly meritless stands dismissed.

**(FATEH DEEP SINGH)**  
**JUDGE**

**December 18, 2019**

*rps*

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No