

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

CRM-M-44689-2017 (O&M)
Decided on : 06.02.2020

Atul Sharma

..... Petitioner

Versus

State of Punjab & anr.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rahul Sharma, Advocate
for the petitioner.

Ms. Devaki Anand Sullar, AAG, Punjab
assisted by HC Dalip Singh.

Mr. Vedant Gupta, Advocate for
Mr. Rajiv Joshi, Advocate
for respondent No.2.

Manjari Nehru Kaul, J.

CRM-24590-2019

Application is allowed and the reply filed on behalf of
respondent No.2 is taken on record.

Main case

Instant petition has been filed under Section 482 Cr.PC for
quashing FIR No.186 dated 30.10.1998 registered under Sections 406,
498-A, 109 and 506 IPC at Police Station Division No.3, District Jalandhar.

Learned counsel for the petitioner contends that the petitioner,
who is the brother-in-law of the complainant's daughter, has been falsely
implicated in the FIR in question by him. After the marriage of
complainant's daughter with the petitioner's brother, both of them lived

together as husband and wife at Canada. However, in 1998 a matrimonial dispute arose between both of them, which led to the dissolution of their marriage by way of a decree of divorce on 22.12.2003 in Canada. Respondent No.2 registered the FIR in question wherein he levelled allegations of demand of dowry and cruelty against the entire family of his daughter's ex-husband. It was further contended that in fact the petitioner was mentally challenged and after an inquiry was conducted regarding the mental condition of the petitioner, the trial Court vide order dated 07.06.2005 postponed the trial against the petitioner as per provisions of Section 328(3) Cr.PC. The trial however, proceeded against the mother of the petitioner, who was acquitted by the trial Court on 07.03.2007 (Annexure P-5). An appeal filed to impugn her acquittal was dismissed by this Court vide order dated 04.10.2007 (Annexure P-6). Not only this, the FIR in question was quashed qua co-accused Madhu Sharma and Umesh Sharma by this Court vide order dated 11.09.2015 (Annexure P-7). The petitioner had filed an application thereafter before the trial Court seeking his discharge on the basis of the order dated 07.03.2007 (Annexure P-5) passed by the trial court and the order dated 11.09.2015 (Annexure P-7) passed by this Court in CRM-M-36197-2010. However, the trial Court vide order dated 13.06.2017(Annexure P-8) dismissed the said application. It has been submitted by the learned counsel for the petitioner that admittedly the petitioner is suffering from a mental disorder and thus, it is apparent that just to harass the in-laws' family of his daughter, the complainant has falsely implicated the entire family.

Learned counsel for respondent No.2 on the other hand has

vehemently opposed the submissions of the learned counsel for the petitioner and submitted that in view of the serious allegations of harassment meted out by the petitioner to the daughter of the complainant, no ground for quashing the FIR in question is made out and the instant petition thus, deserved to be dismissed.

I have heard learned counsel for the parties and gone through the allegations levelled against the petitioner in the FIR in question and other material on record.

This Court has vide powers 482 Cr.PC to quash a FIR and there should not be any hesitation to exercise these extra ordinary powers to secure the ends of justice and to prevent the abuse of process of law.

The FIR in question is just another glaring instance, which unfortunately has become a common practice these days to falsely implicate the entire family of the husband when relations turn sour between husband and wife. In the case in hand, the malafides on the part of the complainant are clearly discernable. Admittedly soon after marriage on 13.02.1994, the complainant's daughter, who was already based in Canada, left for Canada on 16.03.1994. The son-in-law of the complainant joined his wife i.e. the complainant's daughter- Jiwan Sharma in January 1995. It is also not disputed that both the daughter of the complainant as well as his son-in-law never returned to India thereafter and continued staying in Canada. Hence, it cannot be digested as to how the present petitioner, who is mentally challenged and has all along been residing at Jalandhar, would have subjected the daughter of the complainant to any harassment much less any maltreatment on account of illegal demand of dowry. In fact, on a perusal

of the FIR, it is apparent that the articles including the gold jewellery which was allegedly given at the time of marriage to the petitioner by the complainant was not on any demand made by the petitioner. It has nowhere been alleged by the complainant that the articles were demanded by the petitioner and then given to him and his family at the time of marriage. Moreover, it does not appeal to reason that if the complainant's daughter had been actually subjected to acute harassment in India as alleged, soon after her marriage, she would have still sponsored her husband Rajesh Sharma for obtaining a visa for joining her in Canada. It is therefore, very evident from the facts and circumstances of the instant case that the petitioner has been dragged into the net by the complainant only to inflict vengeance on the family of his daughter's ex-husband. The false implication of the petitioner is writ large and most reprehensible to say the least.

Hence, I have no hesitation in allowing the instant petition as the continuance of criminal proceedings against the petitioner would be nothing but an abuse of the process of law. Accordingly, the present petition is allowed and the aforesaid FIR and all consequential proceedings arising out of it, are quashed qua the petitioner.

(MANJARI NEHRU KAUL)
JUDGE

06.02.2020
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Whether speaking/reasoned:	Yes
Whether reportable :	Yes