

In the High Court for the States of Punjab and Haryana at Chandigarh

CRM-M-47188-2021

Date of Decision: December 06, 2021

Ashu Garg

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Chandeeep Singh, Advocate,
for the petitioner.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

Vivek Puri, J.

In this petition, the petitioner has invoked the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing No. 124, dated 09.10.2019, under Sections 406, 498-A of the Indian Penal Code, registered at Police Station Women, District Ludhiana and the consequential proceedings therefrom.

Briefly, the FIR has been registered on the allegations that the marriage of the respondent no.2 was solemnized with the petitioner on 10.03.2013 and it was the second marriage of both the parties. A sum of

Rs. 2,00,000/- was spent at the time of ring ceremony. A sum of Rs. 15 lacs was spent at the time of marriage and sufficient dowry articles were given to the accused which included cash, jewellery and clothes. The articles of istridhan were entrusted to the petitioner and the co-accused in the presence of Jagdish Jindal, Ram Jindal and other relatives and respectable persons. At the time of the entrustment of the dowry articles, the accused were told that the same are for the use of the respondent no.2 and have to return the same on her demand. After some time of the marriage, the accused in connivance with each other started taunting, harassing, abusing and beating the respondent no.2 on the ground that she had not brought sufficient dowry articles and it was not to their standards and they further demanded cash of Rs. 5 lacs. The petitioner also pressurized the respondent no.2 to ask her parents to purchase a good house at Zirakpur for him. The respondent no.2 was given beatings and harassed by the accused. A son was born from the wedlock on 30.10.2013 in DMC Hospital, Ludhiana, but nobody from the side of the accused came to see the new born baby. The respondent no.2 had given a sum of Rs. 5 lacs to the petitioner on his demand who assured her to re-pay the same, but only Rs. 1 lac has been returned. The mother of the respondent no.2 retired from service of bank and the parents of the respondent no.2 purchased a house in Zirakpur in her name and that of her mother Veena Rani. The keys of the house were handed over to the petitioner. The respondent no.2 again conceived in the year 2016 and the accused had been forcing the respondent no.2 to undergo pre-natal scan and when they came to know that it was a female fetus, they pressurized her to abort the

same. The expenses of the delivery were borne by the parents of the respondent no.2. On 16.03.2018, the petitioner left the respondent no.2 and the children at Ludhiana and never contacted them. The petitioner in connivance with the co-accused had been sending threatening messages on WhatsApp that he will commit suicide and he will involve the respondent no.2 and her parental family members. The panchayats were convened, but to no effect. The accused had been threatening to kill the respondent no.2 and her parental family members. They have refused to return her articles of istridhan despite demand and have mis-appropriated the same.

I have heard learned counsel for the petitioner and perused the record.

It has been contended by the learned counsel for the petitioner that the FIR has been lodged on the basis of false allegations. The bills for the jewellery pertain to the year 2008, whereas the marriage of the parties was solemnized in the year 2013. The said bills pertain to the jewellery items purchased at the time of the first marriage of the respondent no.2. A false allegation has been raised to the effect that a sum of Rs. 15 lacs was spent on the marriage, whereas the certificate (Annexure P/6) issued by "Rishta Resort" only indicates that the marriage ceremony of the respondent no.2 was held with the petitioner on 10.03.2013. False allegations with regard to the beatings have been given without there being any medico legal report or medical record. There is nothing to suggest with regard to the source from where cash amount to the tune of Rs. 5 lacs was handed over to the petitioner at the time of

pregnancy and the treatment of the respondent no.2, the payment of medical bills has been made by the petitioner and he is in possession of the original bills.

The powers vested under Section 482 of Code of Criminal Procedure are extra-ordinary in nature and are required to be exercised with a view to secure justice. The powers are not intended to be used to obstruct justice or cause impediment in its dispensation. The inherent powers vested in the High Court are required to be exercised in exceptional cases to prevent a miscarriage of justice and abuse of the process of Court or otherwise secure ends of justice. The power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in rarest of rare cases. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise the allegations as set out in FIR/complaint/charge-sheet. The inherent powers cannot be allowed to be exercised to stifle or hamper a legitimate prosecution.

In a recent pronouncement in ***Criminal Appeal No. 873 of 2021 decided on 24.8.2021 (Saranya Vs. Bharathi and another)***, it has been held by the Supreme Court as follows:-

*“In the case of Deepak (supra), to which one of us (Dr. Justice D.Y. Chandrachud) is the author, after considering the other binding decisions of this Court on the point, namely, **Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460; State of Rajasthan v. Fatehkaran***

Mehdu (2017) 3 SCC 198; and Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605, it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused charge-sheeted or against whom the charge is framed is likely to be convicted or not.”

On advertng to the merits of the present case, it is significant to note that the FIR was registered against the petitioner along with his brother and sister. Significantly, on the conclusion of the investigation, the report under Section 173 Cr.P.C. has only been presented against the petitioner. The perusal of the FIR indicates that there are specific and categoric allegations with regard to the entrustment of the articles of Istridhan to the petitioner, the refusal to return the same and misappropriation thereof. There are also allegations with regard to the maltreatment being meted out to the respondent no.2.

The bills pertaining to the jewellery are for the year 2008 and it may not be appropriate to conclude that the said articles were not handed over to the petitioner at the time of marriage. It is admitted case

that it was the second marriage of the parties and in the event, the jewellery articles were purchased for the first marriage of the respondent no.2, the same would have been received back and utilized at the time of the second marriage of the respondent no.2 with the petitioner. Moreover, it is a matter of common observation that the jewellery items are purchased by the parents of a daughter much in advance in anticipation of the marriage of their daughter on a future occasion.

The version of the respondent no.2 is to the effect that a sum of Rs. 15 lacs was spent at the time of marriage. Though a certificate (Annexure P/6) has been placed on record issued by Rishta Resort which indicates that the marriage was solemnized on 10.03.2013. Merely because the amount spent in hiring the venue and other expenses has not been mentioned in the certificate, cannot be termed to be circumstance to construe that no amount was spent by the parents of the respondent no.2 at the time of marriage.

There is specific and categoric allegation to the effect that the articles of istridhan were handed over to the petitioner in the presence of Jagdish Jindal, Ram Jindal and other relatives and respectable persons. There are allegations with regard to the beating and merely because there is no medical record to substantiate the same, it cannot be termed to be a circumstance to conclude that the respondent no.2 was not given beatings or harassed by the petitioner. Moreover, challan has not been presented with regard to the commission of offence with regard to the bodily injury inflicted upon the respondent no.2.

The categoric version of the respondent no.2 with regard to the payment of Rs. 5 lacs to the petitioner on his demand cannot be disputed at this stage, particularly because a sum of Rs. 1 lac has been stated to be returned to her. Moreover, the copies of the bills placed on record by the petitioner with regard to the treatment of the respondent no.2 cannot be termed to be sufficient to conclude at this stage that the payment has been made by the petitioner, particularly because the amount is stated to have been paid in cash.

Even there is allegation to the effect that a flat in Zirakpur was purchased in the name of the respondent no.2 and her mother, but significantly, the contents of the FIR reveal that the keys were handed over to the petitioner.

The allegations as spelt out in the FIR are indicative of the fact that a sum of Rs. 15 lacs was spent at the time of marriage, sufficient articles of istridhan were entrusted at the time of marriage, the same have been mis-appropriated and the petitioner has refused to return the same on demand. Furthermore, the respondent no.2 was taunted, harassed, abused and given beating on the score that she had not brought sufficient dowry articles and the same were not up to their standards. On the demand of the petitioner, a sum of Rs. 5 lacs was paid to him and a house though purchased in the name of the respondent no.2 and her mother, but the keys thereof handed over to the petitioner.

In these set of circumstances, the allegations as spelt out in the FIR disclose a prima facie case for the commission of offence under Sections 406 and 498-A IPC and no justified ground is made out to

invoke the inherent powers of this Court to quash the FIR in question and consequential proceedings against the petitioners.

Accordingly, present petition is dismissed.

December 06, 2021
vkd

(Vivek Puri)
Judge

Whether speaking / reasoned : Yes
Whether reportable : Yes