

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

CRM-M-50650-2021

Date of Decision: December 03, 2021

Sukrit Dass and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Neeraj Goel, Advocate,
for the petitioner.

Vivek Puri, J.

In this petition, the petitioners have invoked the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing / setting aside the FIR bearing No. 55, dated 30.05.2019, under Sections 323, 406, 498-A of the Indian Penal Code, registered at Police Station City Fazilka, District Fazilka and the consequential proceedings therefrom.

Briefly, the FIR was registered on the allegations that the first marriage of the respondent no.2 was solemnized with Manu Dawra and a girl child was born from their wedlock. Manu Dawra died in a road accident in the year 2013 and the respondent no.2 along with her daughter started residing in her parental house at Fazilka. The family of in-her laws had gifted around 18 bighas of land to the respondent no.2 and her

daughter. Subsequently, the marriage of the respondent no.2 was solemnized with petitioner no.1 on 05.02.2018 in accordance with Anand Karaj ceremonies. Her father gave 18 tolas of golden jewellery to petitioner no.1, 21 expensive suits to the petitioner no.3 i.e. mother-in-law and Rs. 1,00,000/- cash to petitioner no.2 i.e. father-in-law of the respondent no.2. The other house-hold articles were also given to the petitioners and they were clearly told that these articles comprised the isticdhan of the respondent no.2 and could be given to her on demand. The petitioner no.1 was also a divorcee and it was assured by the petitioners that they will extend love and affection to the daughter of the respondent no.2 and perform all the responsibilities towards her studies, marriage etc. The petitioners are greedy persons and they had been taunting the respondent no.2 that her father has given low quality dowry articles and insulted them in the society. They had been pressurizing the respondent no.2 for selling 12 bighas of land which was in the name of the respondent no.2 and her daughter. On her refusal, the petitioners got angry and started taunting her. She kept on tolerating the taunts of the petitioners to save the matrimonial life. The petitioners had also wrongly represented about their caste and occupation of petitioner no.1 at the time of marriage. On 22.05.2018, the respondent no.2 was working at home, the petitioner no.1 returned home at about 2 p.m. and asked her to sell the land and give cash to him and on her refusal, she was given beatings. The petitioners no. 2 and 3 also arrived at the spot and gave beatings to her and turned the respondent no.2 and her daughter out from the house. The panchayat was convened, but to no effect. The petitioners had refused to

return the articles of istridhan. Her signatures were also procured on blank papers for the purpose of compromise which could not be effected.

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

It has been contended by the learned counsel for the petitioners that FIR has been lodged on the basis of false allegations, no dowry was demanded, the adoption deed was executed wherein it was specifically mentioned that the marriage has been solemnized without any dowry, the respondent no.2 had left the matrimonial house on 22.05.2018, the petitioner no.1 had submitted the complaints to the police authorities and the present FIR has been lodged as a counter blast. Furthermore, a panchayati divorce was also effected between the parties and the divorce deed indicates that the respondent no.2 had received articles of istridhan. The respondent no.2 had also filed a divorce petition and ultimately, withdrew the same. The respondent no.2 has concealed the fact of panchayati divorce and filing of a divorce petition while lodging the FIR and wrong allegations have been leveled with respect to pressurizing her to sell the property.

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 petitioners no.1, 2 and 3 are the husband, father-in-law and mother-in-law respectively of the respondent no.2. On a query from the Court, it has been conceded by the learned counsel for the petitioners that all of them are jointly residing in one house. It is not a case of the petitioners that the parents of the petitioner no.1 are residing separate from him and his family. The perusal of the FIR indicates that there are categoric and specific allegations with regard to the specific entrustment of the articles of the istridhan to all the petitioners. There is specific allegation to the effect that the petitioners had been forcing the respondent no.2 to sell the land owned by her and her daughter from the first marriage. On her refusal, respondent no.2 was given beatings and she has been turned out from the matrimonial house. The petitioners had also been taunting her with regard to the quality of the articles of the istridhan. There is specific and categoric allegation to the effect that the petitioners refused to return the articles of istridhan and have mis-appropriated the same. Learned counsel for the petitioners has relied upon the contents of the adoption deed (Annexure P/2) wherein it has been mentioned that the marriage was solemnized without taking any dowry. The reliance has also been placed upon a panchayati divorce (Annexure P/7) wherein it has been specified that the respondent no.2 has received the articles of

istridhan in the presence of the panchayat. As such, the documents sought to be relied upon by the petitioners indicate a discrepant version with regard to the articles of istridhan having been given at the time of marriage. Even there is allegation in the FIR that the signatures of the respondent no.2 were procured on blank papers. Moreover, the adoption deed and panchayati divorce cannot be termed to be the documents of undoubtful authenticity at this stage and the same are required to be proved and the respondent no.2 be confronted with the contents thereof during the course of trial.

The petitioners have also sought to built up a case to the effect that the petitioner no.1 had submitted the complaints to the police authorities. The perusal of the complaints at Annexure P/6 indicate that the same are dated 18.06.2018 and a prayer was made to the effect that a false FIR may not be registered against him. It is significant to note here that the present FIR has been lodged on the basis of a complaint dated 15.10.2018. The FIR has been registered after an enquiry and after it was observed that prima facie offences under Sections 323, 406, 498-A IPC are made out.

In such circumstances, the possibility cannot be ruled out that the complaints (Annexure P/6) were submitted to the District Magistrate, Ghaziabad and Superintendent of Police, Ghaziabad apprehending submission of a complaint against the petitioners by the respondent no.2 and the exercise of the submission of complaints by petitioner no.1 may be a preemptive action and to create a defence. The allegations as spelt out in the FIR disclose a prima facie case for the commission of offence

under Sections 323, 406, 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 03, 2021
vkd

(Vivek Puri)
Judge

Whether speaking / reasoned : Yes
Whether reportable : Yes