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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-52879-2021

Date of Decision: December 22, 2021

Vikas Minhas

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ**

Present: Mr.Arun Takhi, Advocate for the petitioner.

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**RAJESH BHARDWAJ, J.**

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.67, dated 20.05.2017 (Annexure P-16), under Sections 420, 406, 498-A, 177 IPC and offence under Section 376 IPC added lateron, registered at Police Station City Hoshiarpur, District Hoshiarpur and all other subsequent proceedings arising therefrom.

The present FIR was lodged by Jagriti Jaswal through her Special Power of Attorney executed in favour of Shamsheer Singh, her father. It was alleged that her marriage took place with Vikas Minhas on 06.12.2014 at Maharaja Palace, Tanda Road, Hoshiarpur, as per Hindu rites. It was alleged that Vikas Minhas was a divorcee and this fact was not mentioned in the marriage certificate. During her stay at matrimonial home from 06.12.2014 to 29.12.2014, the complainant was often subjected to beating for hard cash by her husband on the instigation of his mother Kiran Bala. They demanded Rs.20 lakhs to pay off the debts of Vikas Minhas in USA. On her refusal to pay the same, the complainant was denied the visa

papers. It was further alleged that to secure the Canadian immigration, she had to pay 17000 US dollars + 9000 Australian dollar to the opposite party. The complainant was served upon a divorce notice. This complaint was lodged with the Punjab State Commission for NRIs, Chandigarh (for short 'the Commission'), for registering the case under Sections 498-A, 420, 424, 376, 383, 384 IPC. Thereafter, a preliminary enquiry was carried out by the Investigating Agency and the present FIR was lodged.

The investigation commenced. The petitioner is resident of Canada. Counsel for the petitioner has vehemently contended that the petitioner was already married with one Arti Rani. As admittedly, that marriage was never consummated and hence both, the petitioner and his earlier wife entered into a compromise and on paying an amount of Rs.70,000/- by the petitioner, the marriage was dissolved. After annulment of the marriage, the petitioner re-married respondent No.3-Jagriti Jaswal. Just after 21 days from the date of marriage, the petitioner left for Canada on 27.12.2014 and on 28.12.2014 respondent No.3-Jagriti Jaswal shifted to the house of her parents. It is contended that respondent No.3 started harassing the in-laws and put a condition of granting her visa for Canada. He contends that the petitioner made a payment of 490 dollars through his credit card and on 22.04.2016 all immigration papers of respondent No.3 were processed and she got the visa. After going to Canada, the relationship between the petitioner and respondent No.3 went in rough weather and finally their marriage was dissolved by Supreme Court of British Columbia vide its final order dated 03.03.2021 and certificate of divorce was issued on 06.04.2021. Counsel for the petitioner vehemently contends that on earlier occasions also the compromise was arrived at between the petitioner and

respondent No.3. However, the same did not materialise. He has vehemently contended that the present FIR has been registered on the direction of the Commission and has placed on record the relevant document as Annexure P-12. He submits that the Commission had no jurisdiction to give a direction to the Investigating Agency for lodging the present FIR. Besides this he has argued that marriage between the petitioner and respondent No.3 is dissolved by the Supreme Court of British Columbia in Canada. He further submits that in the overall facts and circumstances of this case, the prosecution of the petitioner is nothing but an abuse of the process of the Court and hence, the same deserves to be quashed. Petitioner has relied upon Jatt Ram vs Punjab State Human Rights Commission and another 2005(3) RCR (Criminal) 716 to buttress his argument regarding jurisdiction of the Commission.

I have heard the counsel for the petitioner and have gone through the record.

Needless to say that the petitioner remained in India with respondent No.3 after the marriage only for 21 days and thereafter he left for Canada. The respondent-wife immediately thereafter shifted to her parental home. Thereafter, as she was granted the visa, almost two years thereafter, she went to Canada in the year 2016. The dispute between the petitioner and the wife took place when they joined in Canada. FIR in question has the specific allegations regarding the cruelty, harassment and beating the wife. There are allegations for the demand of dowry as well. The complaint was lodged through power of attorney with the Commission. The argument raised by counsel for the petitioner that FIR has been lodged on the direction of the Commission is without jurisdiction. However the relevant order,

Annexure P12, which is placed on record would show that the Commission had forwarded the complaint alongwith the attachment to the Senior Superintendent of Police, Hoshiarpur with a direction to look into the matter and take appropriate action in accordance with the provisions of law and thereafter on due enquiry the present FIR was registered. This is apparent from the record that the Commission has only directed the Investigating Agency to take the action in accordance with law. Such a direction cannot be considered as a mandate to the Investigating Agency to register the FIR. Hence I am unable to accept the argument raised by the counsel for the petitioner that the present FIR was lodged on the direction of the Commission.

So far as the argument raised by counsel for the petitioner regarding alleged false implication of the petitioner in a motivated manner is concerned, it is totally a disputed question of fact. This Court while exercising its jurisdiction under Section 482 Cr.P.C. cannot step into the shoes of the trial Court and draw the conclusion on the basis of presumptions and assumptions. The veracity of the allegations and the counter allegations can be established only on the basis of the appreciation of the evidence produced by the respective parties. I am supported by the judgment of Hon'ble Apex Court in **State of Odisha vs Pratima Mohanty etc.** CrI.Appeal Nos.1455-1456 of 2021, decided on 11.12.2021 wherein the Hon'ble Supreme Court has held as under:-

“6.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per settled proposition of law while examining an FIR/complaint quashing of which is sought, the Court cannot embark upon any enquiry as to the reliability or genuineness of allegations

made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 Cr.P.C. when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under Section 482 Cr.P.C. the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court.”

Hon'ble the Supreme Court in the case of **State of Haryana and others vs Bhajan Lal and others** (1992 supp (1) SCC 335) laid down the parameters for exercising of inherent powers under Section 482 Cr.P.C. which reads as under:-

- “(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.”

Weighing the facts and circumstances of the present case on the parameters laid down by the Hon'ble Apex Court in **Bhajan Lal**'s case (supra), the present case fails to qualify the parameters laid down by the Hon'ble Apex Court. Thus, this Court is not inclined to exercise the jurisdiction under Section 482 Cr.P.C. in favour of the petitioner. The judicial precedent relied upon by learned counsel for the petitioner is distinguishable.

Resultantly, the petition being devoid of any merit is hereby dismissed.

December 22, 2021  
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( **RAJESH BHARDWAJ** )  
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No  
Yes/No