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

**CRM-M-4869-2022 (O&M)
Date of decision : 07.02.2022**

Vikas Chopra

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Mukul Goyal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in this petition is for quashing of FIR No.106 dated 09.09.2021, under Sections 506, 377 IPC, Section 6 POCSO Act, registered at Police Station Bhargo Camp Commissionerate, Jalandhar and subsequent proceedings thereof.

As per the facts of the case, the FIR in question was lodged by Harjeet Kaur daughter of Ranjit Singh. It was alleged that her marriage was solemnized with Vikas Chopra @ Vicky i.e. the petitioner on 20.11.2009. From this wedlock, two children i.e. one daughter namely, Samaira, aged 10 years and son Aarush, aged 9 years were born. After the marriage, her husband i.e. the petitioner started harassing her and never provided any expenses for running the house. He harassed her sexually and clicked her nude photographs as well. Not only this, he abused his

own son sexually who was 9 years old. Besides this, there are other allegations of sexually abusing the wife, as well as the child. Request was made to take the legal action against the petitioner. Pursuant to registration of the FIR, case is under investigation.

Learned counsel for the petitioner has approached this Court for invoking the inherent powers under Section 482 Cr.P.C. and to quash the FIR on the contention that the prosecution of the petitioner is nothing but an abuse of the process of the Court. It has been contended that complainant-respondent No.2 used to compel the petitioner to live separately from his parents. She is a lady of very aggressive nature and she was never happy with the birth of her daughter, Samaira as she had a conviction in her mind that this child is unlucky. It is also contended that respondent No.2/complainant used to say that the petitioner is impotent and is incapable of doing any sexual act. She used to curse her parents on the ground that she is married to an impotent person. He has submitted that in the overall facts and circumstances, no case as alleged is made out against the petitioner and hence, FIR in question may be quashed.

I have heard learned counsel for the petitioner and gone through the records.

Evidently, the allegations in the FIR are very serious in nature. During the course of arguments, it is transpired that the case is under investigation. The sum and substance of the arguments raised by counsel for the petitioner is that all the allegations levelled in the FIR are totally false and frivolous. He has contended that respondent No.2-complainant is of quarreling nature and she is not satisfied with her marriage with the petitioner.

Be that as it may, the contentions raised by counsel for the petitioner are purely disputed question of facts. The allegations made in the FIR could not be evaluated on the basis of the bald assertions raised before this Court in a petition filed under Section 482 Cr.P.C. Time and again, Hon'ble the Supreme Court, has reiterated exigencies for invoking the inherent powers under Section 482 Cr.P.C. It has been laid down by the Hon'ble Supreme Court that the High Court should be circumspect and invoke the jurisdiction under Section 482 Cr.P.C. sparingly. Invoking the powers under Section 482 Cr.P.C. is taking away the right from the prosecution to prove its case on the basis of the evidence to be led by it. Admittedly, the case in hand is under investigation. The investigating agencies are yet to investigate the allegations made in the FIR and draw a conclusion on the same.

The Hon'ble Supreme Court in State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335 has held as under:-

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

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 FIR 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 Hon'ble Supreme Court in Veena Mittal Vs. State of UP, 2022 LiveLaw (SC)110, it has held that “it is well-settled that at the stage when the High Court considers a petition for quashing criminal proceedings under Section 482 of the Cr.P.C., the allegations in the FIR must be read as they stand and it is only if on the face of the allegations that no offence, as alleged, has been made out, then the Court may be justified in exercising its jurisdiction to quash”.

Assessing the facts and circumstances of the present case on the anvil of law settled by the Hon'ble Supreme Court, I find that the present case fails to qualify the test for invoking the inherent jurisdiction under Section 482 Cr.P.C. by this Court in favour of the petitioner. Resultantly, the petition, being devoid of any merits, is hereby dismissed.

However, the petitioner is at liberty to avail the remedy as available to him under the law.

(RAJESH BHARDWAJ)
JUDGE

07.02.2022
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No