

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

CRM-M-11612-2022
Date of decision: 21.03.2022

Kailash Chander and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gagandeep Singh Manku, Advocate,
for the petitioners.

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.

The present petition has been filed for quashing of FIR No.70, dated 18.3.2021, under Sections 498-A, 406, 201 IPC, at Police Station Sultanpur Lodhi, District Kapurthala and challan dated 01.12.2021 along with all the subsequent proceedings arising therefrom.

As per the factual matrix of the case, the present FIR was lodged by complainant-respondent No.2 (Prabhjeet Kaur). It was, *inter alia*, alleged that she was married to Sachin Kumar son of Kailash Chander on 30.11.2020. At the time of marriage her parents gave enough dowry, however, her in-laws being greedy for dowry were not satisfied with the same. They started demanding car and warned the complainant that in case she is unable to bring car from her parents, she would have no place in the matrimonial home. It was

also alleged that her mother-in-law and father-in-law also threatened the complainant of ousting her from the matrimonial home in case the demands are not met. She was being given taunts and tortured time and again. On 22.1.2021, at 9:00 pm in night she was pushed out of the matrimonial home after having been beaten. She was threatened and warned that their son is getting matrimonial alliances from New Zealand and they would perform his marriage over there. The complainant approached the police and lodged the present FIR with a prayer to take legal action against the culprits.

Learned counsel for the petitioners has vehemently contended that the petitioners are the parents-in-law of the complainant. He submits that the petitioners have been falsely implicated in this case. He submits that the preliminary inquiry was conducted by the DSP, Crime and allegations against the petitioners were found false. However, the complainant side being influential persons got the petitioners implicated on baseless allegations. It was submitted that their son that is the husband of the complainant is residing in New Zealand permanently and he owns two cars and, thus, the allegations of demanding dowry is false and frivolous. He submits that the complainant entered into marriage with the son of the petitioners only in order to settle abroad. He submits that as no *prima facie* offence under Sections 498-A, 406 & 201 IPC is made out, in view of the law laid down by the Hon'ble Supreme Court in **State of Haryana vs Bhajan Lal**, 1992 Supp (1) SCC 335, the prosecution of the petitioners is totally an abuse of the process of the Court and, hence, the FIR in question is liable to be quashed.

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

On the perusal of the FIR, it is apparent that the complainant was

married with the son of the petitioners on 30.11.2020. The husband of the complainant is already abroad, whereas the petitioners are residing in India. The allegations against both the petitioners are specific regarding causing harassment and demanding dowry. There are allegations of pushing the complainant out of the matrimonial home after having been beaten. The contention raised by learned counsel for the petitioners that the petitioners having been falsely implicated is totally a disputed question of fact. The veracity of the allegations in the FIR and the contentions raised by learned counsel for the petitioners are totally subject matter of the trial Court to be appreciated on the basis of evidence to be led by the parties before it. Time and again, the Hon'ble Supreme Court had laid down that the High Court should circumspect in invoking its power under Section 482 Cr.P.C. It is also laid down that the High Court should exercise such powers sparingly. The Hon'ble Supreme Court in the case of Bhajan Lal's case (supra) observed 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.

Thus, it is crystal clear that if no prima facie case is made out from the reading of the allegations made in the FIR and the proceeding is instituted with an ulterior motive for wreaking vengeance on the accused, then in such situation, the power under Section 482 Cr.P.C. can be invoked. The

contention raised by the learned counsel for the petitioners regarding the inquiry conducted by the DSP, Crime cannot be a ground for quashing the FIR in view of the law laid down by Hon'ble Supreme Court in State of Odisha vs. Prtima Mohanty etc., 2022 AIR (SC) 41. However, examining the facts and circumstances of the case on the anvil of the law settled by the Hon'ble Supreme Court in Bhajan Lal's case (supra) and Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303, the Court is of the opinion that the present case do not qualify for invoking its power under Section 482 Cr.P.C. by this Court.

The petition being devoid of merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

21.03.2022

sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No