

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

CRM-M-12380-2022

Date of decision : 28.07.2022

Charu Aggarwal and others

.....Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ram Darshan Yadav, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the FIR No.60 dated 25.08.2020, under Sections 498-A, 406, 509, 323, 506, 34 of IPC, registered at Women Police Station Rewari, District Rewari along with subsequent proceedings arising therefrom.

As per the facts of the case, the present FIR was lodged by respondent No.2. It was alleged that the marriage of respondent No.2 was solemnized on 21.02.2020 with Ankit Aggarwal. The parents of respondent No.2-complainant gave sufficient dowry in the marriage. Further, after the marriage, in-laws of respondent No.2 were not satisfied with the same and thus, they started harassing her on account of demand of dowry. It was alleged that the in-laws started giving her taunting. They used to gave her beatings. When harassing kept unabated, the respondent No.2 lodged the present FIR.

Learned counsel for the petitioners submits that petitioner No.1 is married sister-in-law, petitioner No.2 is husband of petitioner No.1, petitioner No.3 is unmarried sister-in-law and petitioner No.4 is the

mother-in-law of respondent No.2. He submits that no dowry was given in the marriage. He further submits that there are no specific allegations against the petitioners and no specific demand of dowry was ever raised. He has submitted that all the ornaments have already been taken by respondent No.2 while leaving the matrimonial home. He has submitted that the challan is presented by the investigating agency after investigation which has been carried out in a very partial manner. He submits that the investigating agency did not apply their judicial mind and filed challan in a mechanical manner. He submits that in the facts and circumstances of the case and in view of the law settled by the Hon'ble Supreme Court, the prosecution of the petitioners is nothing but an abuse of the process of the Court and thus, the same deserves to be *set aside*.

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

Admittedly, the marriage of respondent No.2 has been solemnized on 21.02.2020 with Ankit Aggarwal. The complainant has specifically made the allegations against the petitioners about causing harassment by giving her taunting for bringing less dowry. There were specific demands made to her. Besides this, she used to be given beatings as alleged in the FIR. Learned counsel for the petitioners has contended that the allegations are false and frivolous and the investigation has been carried out in a mechanical manner. As having been alleged in the FIR, the investigating agencies carried out the investigation and presented the challan against all the accused. The contentions raised by counsel for the petitioners regarding false and frivolous allegations against the petitioner are totally a question of fact.

The Hon'ble the Supreme Court in Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others, 2021 SCC OnLine SC 315 has held that the High Court should exercise the power under Section 482 Cr.P.C. with great circumspection and sparingly.

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 Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303 has laid down the following parameters:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power

is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and

compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Weighing the facts and circumstances of the present case on the anvil of the law settled, this Court is of the opinion that the case in hand do not qualify for invoking the powers by this Court under Section 482 Cr.P.C. in favour of the petitioners. Resultantly, the petition being devoid of any merits are hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the cases.

28.07.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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