

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

CRM-M-12667-2022
Date of decision: 25.03.2022

Sahil	Versus	 Petitioner
State of Haryana and another		... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. M.S. Randhawa, 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.

The present petition has been filed for quashing of FIR No.662, dated 4.10.2021, under Sections 323, 34, 406, 498-A and 506 IPC, at Police Station City Narnaul, District Mohindergarh.

As per the factual matrix of the case, the present FIR was lodged by respondent No.2-complainant, namely Ranjana. It was, inter alia, alleged in the FIR that she got married with the petitioner on 5.10.2019. However, her in-laws threw her out of the matrimonial home on 21.2.2020. Her husband Sahil i.e. the petitioner works in Merchant Navy. Her parents gave sufficient dowry including gold ornaments at the time of marriage and wedding ceremony was organized at Apaar Hotel. However, after marriage, her husband and in-laws tortured her mentally that her parents did not spend according to their status and estimates. Her in-laws started torturing the complainant daily on petty issues. Her husband Sahil took her mobile phone to the mobile centre on the excuse of changing the cover of the mobile, however, it was found that her husband, Sahil hacked her phone by scanning the QR code of whatsapp installed and RMC call recorder was installed in her phone and he used to listen all the conversation of the complainant. While Sahil was overseas, her

parents-in-law used to taunt and harass her mentally. The parents of the complainant with relatives went to the parents of her husband, however, they were insulted and humiliated. The complainant was thrown out of the matrimonial home by the her husband and parents-in-law. The FIR was lodged to take legal action against the culprits.

Learned counsel for the petitioner submits that the petitioner is the husband of the complainant and has been falsely implicated in the present case. He submits that he is working in Merchant Navy and returned back on 24.1.2020. He went to the house of the complainant on 22.2.2020 to bring her back, however, his wife and her family members started pressurizing him to leave the job. The parents were ready to rehabilitate the complainant, but she was never willing to return back to the matrimonial home. He submits that in view of the allegations made in the FIR, it is apparent that no case as alleged is made out against the petitioner and hence, the prosecution of the petitioner is totally an abuse of the process of the Court.

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

From the bare perusal of the allegations in the FIR, it is apparent that there are specific allegations of taunting, beating and harassment caused to the complainant on account of demand of dowry. Besides this, the allegations pertaining to the cruelty to the complainant have also been levelled.

The veracity of the allegations in the FIR and the contentions raised by learned counsel for the petitioner 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 be 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 **State of Haryana vs Bhajan Lal**, 1992 Supp (1) SCC 335, 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. 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

25.03.2022
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No