

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(127)

CRM-M-14198-2022

Date of Decision: 05.04.2022

Achin Gupta

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. N.S. Sidhu, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of FIR No.95 dated 9.4.2021 registered under Sections 498A, 323, 406, 506, 34 IPC at Police Station, Urban Estate, Hisar along with all the subsequent proceedings arising therefrom including the charge sheet dated 13.10.2021.

Learned counsel for the petitioner submits that petitioner is the husband of the complainant and has been roped in falsely. He submits that the marriage in question took place on 9.10.2008. Thereafter there were minor scuffles between the husband and wife on account of their temperamental differences, however, the same had no relevance with the allegations made in the FIR. The FIR was lodged by the wife of the petitioner namely Tanu Gupta. It has been contended by learned counsel for the petitioner that the marriage in question was a love marriage and hence there was no question of any dowry as alleged. He submits that the complainant wife never preferred to live in the matrimonial home and always pressurized the petitioner to sever his ties with the family members to which the petitioner refused. The petitioner remained adamant on the same. She caused harassment to the family of the petitioner to the extent that the mother of the petitioner had to file a petition under the Domestic

Violence Act against the complainant wife at Dwarka Court, New Delhi. As a counter blast to the same the complainant lodged the present FIR against the petitioner and his family members. Petitioner was granted interim protection by this Court. Counsel has submitted that the implication of the petitioner in the present FIR is totally an abuse of the process of law and the same deserves to be quashed.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

The main thrust of the arguments raised by counsel for the petitioner is that the complainant had never been interested in living in the matrimonial home and she kept on pressurizing the petitioner for living separately from his family members. In order to achieve her objective she kept on causing harassment to the petitioner and his family members. However, a perusal of the allegations in the FIR would show that the petitioner and the family members gave taunting to the complainant for lowering down their image in the society. Demand of a car was also made. Complainant was taunted for not having been incurred sufficient expenditure on marriage by her parents. There are allegations of beating the complainant by her husband and the other family members. It has been specifically alleged that the petitioner is an alcoholic and has illicit relations with one Vandana Sharma.

The Hon'ble Supreme Court has settled the law time and again regarding exercising the jurisdiction under Section 482 Cr.P.C for quashing of FIR. A reference in this regard may be made to the law settled in case of ***State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335***, wherein following parameters have been given:-

“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 of 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 channelised 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 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.”

Further, Hon'ble Supreme Court in **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra, 2021 SCC Online SC 315** has held that quashing of FIR is an exception rather than an ordinary rule and the High Court should exercise the powers under Section 482 Cr.P.C sparingly with circumspection.

Taking into consideration the above facts and circumstances of the present case in the light of the law settled, the present case does not fall in the category of cases for invoking the inherent powers under Section 482 Cr.P.C. The parameters laid down by the Hon'ble Supreme Court mandate that in a case where from the bare reading of the allegations in the FIR no cognizable offence is made out or it has been lodged to wreak the vengeance then the High Court may intervene. The veracity of the allegations levelled by the complainant can be assessed only after a thorough investigation and thereafter by the Trial Court on the basis of the evidence led before it.

Thus, this Court is of the opinion that the case of the petitioner does not qualify for exercising its jurisdiction under Section 482 Cr.P.C. Resultantly, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

05.04.2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No