

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

CRM-M-14736-2022

Date of decision : 07.04.2022

**Yogesh Sharma****.....Petitioner****versus****State of Haryana and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ****\*\*\***Present :- Mr. Varinder Arora, Advocate  
for the petitioner.**\*\*\*****RAJESH BHARDWAJ, J. (Oral)**

Prayer in the present petition is for quashing the FIR No.229 dated 16.10.2020, under Sections 323, 406, 494, 498-A, 506 of the Indian Penal Code, registered at Police Station Ateli, Mahendergarh (Haryana) along with subsequent proceedings arising therefrom.

As per the factual matrix of the case, the present FIR was lodged by the complainant-respondent No.2. The sum and substance of the allegations in the FIR are that the complainant was married with the petitioner-Yogesh Kumar on 29<sup>th</sup> April, 2006. The petitioner is a Constable in Chandigarh Police. Her family spent about Rs.30,00,000/- on the marriage. One Maruti car, one motorcycle, TV and Rs.5,00,000/- cash were given in the marriage. Soon after the marriage, the husband and the family members started taunting and beating the complainant on account of demand of dowry. The husband demanded Swift Car. It was alleged that husband used to beat the complainant after drinking and started demanding the money. The complainant found one Pendrive in the pocket of the petitioner and from the photos in the pendrive, she came to know that her husband had an affair with one Priyanka. On her asking, the petitioner

admitted that he has solemnized marriage with her. Having been harassed persistently, the complainant lodged the present FIR for taking legal action against the culprits.

Learned counsel for the petitioner has submitted that the petitioner is a Constable in Chandigarh Police and the allegations made in the FIR are false and frivolous. He submits that the complainant is also employed in Chandigarh Police and thus, she has managed to lodge false and frivolous FIR. He has submitted that though the allegations are levelled against the petitioner of having illicit relations with another woman, however, during investigation, no evidence was found for substantiating such allegations and hence, he was not even charge-sheeted for the same after presentation of the challan. It is further submitted that the allegations levelled are very general in nature and do not constitute any offence against the petitioner and hence, the prosecution of the petitioner is nothing but an abuse of the process of the Court. Hence, the present FIR be quashed.

I have learned counsel for the petitioner and perused the records.

On perusal of the FIR and the challan filed, it is apparent that there are specific allegations made by the complainant against the petitioner. Though, at the time of lodging of the FIR, the allegations were made against the husband and other family members, however, at the time of filing the challan, rest of the accused were found innocent and the challan was presented only against the present petitioner. Admittedly, both the petitioner and respondent No.2-complainant are employed in Chandigarh Police.

Learned counsel for the petitioner has argued that the allegations made in the FIR are false and hence, no case is made out against

him. However, the settled position of law in exercising the power under Section 482 Cr.P.C. for quashing the FIR is entirely different.

Hon'ble Supreme Court in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 has dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

*“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 serious impact on society. Similarly, any compromise between the victim and 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 pre-dominatingly 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 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.”*

From the reading of the law settled by the Hon'ble Supreme Court, there is no ambiguity in the law settled that this power should be used sparingly and in exceptional cases. The quashing of the FIR can be resorted to in case no cognizable offence is made out. Further, if the allegations made in the FIR are so absurd and obnoxious which do not constitute any offence then under that situation, the High Court may exercise its inherent jurisdiction. From reading of the present FIR, the

allegations made in the FIR are specific and this Court finds that the facts and circumstances of the present case do not qualify for exercising the power under Section 482 Cr.P.C. for quashing the same.

The veracity of the allegations will be established only on the appreciation of the evidence to be led before the trial Court. Hence, in view of the settled law , the present case fails to qualify for exercising powers under Section 482 Cr.P.C. by this Court. Petition being devoid of any merits is hereby dismissed.

07.04.2022  
m. sharma

( RAJESH BHARDWAJ )  
JUDGE

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