

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

1. CRM-M-17781-2021

Baljit Gir Petitioner

versus

State of Punjab and anotherRespondents

2. CRM-M-31555-2021

Santosh

versus

State of Punjab and another

Date of decision : 21.04.2022

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

**Present :- Mr. Yashpal Thakur, Advocate
for the petitioner(s).**

RAJESH BHARDWAJ, J.

The above two petitions filed by the petitioners namely, Baljit Gir and Santosh under Section 482 Cr.P.C. having been arisen out of the same FIR bearing No.287 dated 03.09.2019, under Sections 498-A, 406 and 323 of IPC, registered at Police Station Sohana, District SAS Nagar, Punjab, are being taken up together. Prayer in these petitions is for quashing of said FIR.

As per the facts of the case, the FIR was lodged by respondent No.2-Rubi Rani. It has been alleged that she was married with Gurjant son of Sham Gir on 20.01.2019 and her father had given sufficient dowry in the marriage. In June, 2019, her sister-in-law-Santosh, visited Amloh during summer vacations and she told to husband of the complainant that she was sleeping since morning. On being instigated, complainant was beaten by her husband. Thereafter, her father-in-law-Sham Gir and brother-in-law namely, Avtar Gir left her at her parental home. The panchayats were convened for

resolving the matter amicably and it was compromised. She was taken back by her husband to matrimonial home. On 15.08.2019, again her sister-in-law visited Amloh on the occasion of *Rakshabandhan* and she resided with them for 2-3 days. Again she instigated her husband Gurjant, brother-in-law-Avtar Gir, father-in-law-Sham Gir, mother-in-law-Jasvir Kaur and maternal uncle (*chacha sohra*) Baljit Gir. On being instigated, her father-in-law broke her phone and her husband, brother-in-law and mother-in-law gave her beating. Thereafter, she told about this incident to her husband, however, he did not take any action regarding the same. Her in-laws repeatedly kept on taunting her for not bringing sufficient dowry. She was commented upon that they had given ALTO car in the marriage of their daughter and hence, the complainant should also bring a car from her father. It was alleged that her father-in-law Sham Gir, brother-in-law-Avtar Gir, sister-in-law-Santosh, uncle(*chacha sohra*) Baljeet Gir, mother-in-law-Jasvir Kaur and her husband Gurjant Singh beaten her for the demand of dowry. The harassment having been given beyond tolerance, she has filed the present FIR for taking the legal action against the culprits.

Learned counsel for the petitioners has vehemently contended that the petitioners before this Court *are* uncle (*chacha sohra*) in CRM-M-17781-2021 and sister-in-law in CRM-M-31555-2021 of the complainant and have been falsely implicated in these cases. He submits that there are no specific allegations against the petitioners in the FIR. It has been submitted that the petitioner-Baljit Gir is resident of Village Halla, Fatehpur District Patiala and petitioner-Santosh is resident of Village Palli in District SBS Nagar which is different from the village where the matrimonial home is situated and hence, there was no occasion for the petitioners for causing any interference in the family matters of the complainant. He submits that

matrimonial home of complainant is at Amloh and not in Village Halla Fatehpur or Palli. He further submits that the allegations are very general in nature and the petitioners have been falsely implicated in the FIR only being the relatives of the husband of the complainant. He has relied upon the Hon'ble Apex Court judgments titled as *Preeti Gupta and another Vs. State of Jharkhand and another, (2010) 4 Cri. CC 53*. He submits that in view of the law settled, in the judicial precedent relied upon, the prosecution of the petitioners is nothing but an abuse of the process of the Court and hence the same deserves to be *set aside*.

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

After hearing counsel for the petitioners and perusing the record, it is apparent that the marriage in question has taken place on 20.01.2019. There are allegations of beating the complainant and causing harassment for the demand of dowry and on number of occasions even panchayats were also alleged to have been convened and the matter was resolved. However, the harassment kept on re-surfacing. The petitioners have contended that they are resident of different village and thus, it has been contended that petitioners have been falsely implicated. The allegations in the FIR are not sufficient enough to reach to the conclusion of the guilt or innocence of the accused. The FIR is only a document to put the legal machinery in motion. It is the investigation thereafter, and the collection of the evidence by the investigating agency which is brought before the trial Court for appreciation. The case is at threshold, thus, invoking power under Section 482 Cr.P.C. for quashing of the same is totally against the mandate of the settled law.

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.*

Weighing the facts and circumstances of the present cases on the anvil of the law settled, this Court is of the opinion that the cases 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 petitions being devoid of any merits are hereby dismissed. However, the petitioners are at liberty to avail their remedies before the trial Court. Nothing said herein shall be treated as an expression of opinion on the merits of the cases.

21.04.2022
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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