

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(128)

CRM-M-16028-2022

Date of Decision: 20.04.2022

Raj Kumari & others

--Petitioners

Versus

State of Haryana & another

--Respondents

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

Present:- Mr. Sarbjit Singh, Advocate for the petitioners.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for praying for quashing of FIR No.44 dated 13.3.2022 under Sections 313, 323, 34, 354-B, 354-C, 406, 498-A, 506 IPC, registered at Police Station, Women Police Station, District Jind and all the subsequent proceedings arising therefrom.2).

As per facts of the case, present FIR was lodged by Saloni wife of Amit Kumar. The sum and substance of the allegations in the FIR is that the complainant was married with Amit Kumar in the year 2008. After the marriage her in-laws started harassing her for the demand of dowry. She was continuously being given tauntings that her parents did not even give the motorcycle. However, the parents of the complainant had given sufficient dowry as per their capacity. The in-laws used to treat her very badly. She was persistently being pressurized by them. They also talked to her parents to invest an amount of Rs.2/3 lakh for Amit. Mother of the complainant told that it was beyond their capacity. As she failed to fulfill their demand, she was given beatings time and again. Having no other alternative, the complainant finally lodged the FIR with a request to take legal action against the culprits.

After registration of FIR the investigation commenced.

Learned counsel for the petitioners has vehemently contended that the petitioners have been falsely implicated in the present FIR. He submits that on 14.9.2021 there occurred an altercation between the petitioner and the complainant side. As the petitioners suffered injuries at the hands of complainant side, the petitioners got registered FIR No.233 dated 16.9.2021 registered under sections 341, 506, 323, 34 IPC at Police Station, Beas, District Amrtisar Rural. Counsel submits that respondent no.2 also got registered a cross-case against the petitioners vide G.D. No.23 dated 18.9.2021 under sections 323, 341, 148, 149 IPC on the ground that on 14.9.2021 at about 9 PM when her husband was coming back on a motorcycle, then, the petitioners encircled him and started abusing him. Thereafter, he was beaten. Counsel submits that once the complainant had lodged the cross-case, the present FIR on the same cause of action is nothing but an abuse of the process of law and hence the same deserves to be quashed. To buttress his arguments, counsel has relied upon the judgement of Hon'ble Supreme Court in case of ***T.T. Antony Vs. State of Kerala, Criminal Appeal No.689 of 2001 arising out of SLP (Crl.) No.1522 of 2000 decided on 12.7.2001.***

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

Respondent no.2 is the daughter-in-law of petitioner no.1. As argued by counsel for the petitioners, present FIR is a counter blast to the FIR No.233 dated 16.9.2021 which pertains to the occurrence dated 14.9.2021. However, the FIR in question pertains to the matrimonial discord between respondent no.2 and the petitioners.

Learned State counsel has apprised the Court that all the FIRs between the parties are under investigation and hence the charge sheet is yet to be filed in the present case.

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 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 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.

The reliance placed upon by counsel for petitioners in ***T.T. Antony's (supra)*** has no relevance as the same is distinguishable in the facts and circumstances of the present case.

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 powers by this court under Section 482 Cr.P.C. Resultantly, the petition being devoid of any merit is hereby dismissed. However, parties are at liberty to avail the alternate remedies as available to them in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

20.04.2022

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