IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(129) **CRM-M-22095-2022**
Date of Decision: 20.05.2022

Karan Vaid & others --Petitioners

Versus

State of Haryana & another --Respondents

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

Present:- Mr. Karan Kaushal, Advocate for the petitioners.

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RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of FIR No.158 dated 22.11.2018 under Sections 342, 406, 498-A, 509, 34 IPC, registered at Police Station, Women Police Station, Gurugram and all the subsequent proceedings arising therefrom.

As per facts of the case, present FIR was lodged by the complainant against the petitioners. Summarizing the allegations in the FIR it had been alleged that the marriage of the prosecutrix took place on 11.5.2015 with Nicky Vaid at Mumbai as per Hindu rites. After the marriage, her husband and in-laws started harassing her for the demand of dowry. Her mother-in-law made a demand of Rs.10 lakh. It was alleged that her parents gave sufficient dowry at the time of marriage. It was told to her that they expected an Audi car from her parents. Her mother-in-law removed all her jewelry given by her parents. She was given tauntings unabated. She was time and again commented upon by saying that she needed psychiatric treatment. She was taunted by saying that they had made a wrong selection by marrying their son to her and that their life had become hell by accepting her as a bride in their family. The mother-in-law used to instigate her husband to beat her. Her father-in-law also used to give

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humiliating comments to her. Her mother was also humiliated by her father-in-law. All the members of in-laws family caused harassment and cruelty to the complainant in one way or the other. She was mentally and physically tortured on the demand of dowry. The situation having become unbearable, the complainant lodged the present FIR for taking legal action against the culprits.

The investigation commenced and the allegations against the petitioners were substantiated during investigation and thus the challan was presented.

Learned counsel for the petitioners has vehemently contended that the petitioners have been falsely implicated in the present FIR. He submits that prosecution of the petitioners in the present FIR is nothing but an abuse of the process of law. He submits that petitioners before this court are the brother-in-law and the parents-in-law of the complainant/respondent no.2. He submits that the allegations are false and frivolous and do not constitute any cognizable offence. Counsel submits that all the dowry articles have already been returned to the complainant/respondent no.2 in the presence of her brother. Counsel submits that the investigating agency at Gurugram had no jurisdiction to register the FIR and investigate the same. He submits that petitioner no.1 resides in Nigeria and petitioners no.2 and 3 reside in Mumbai and frequently travel to Nigeria. It is submitted that parental home of the complainant is at Ambala and hence in view of the law settled by the Hon'ble Supreme Court in ***Rupali Devi Vs. State of Uttar Pradesh and others, (2019) 5 SCC 384*** the investigating agency had no jurisdiction to investigate the FIR. Counsel submits that the Hon'ble Supreme Court has held that there is tendency of implicating the distant

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relatives of the husband and other family members and thus their prosecution is totally an abuse of the process of law. To fortify his arguments, counsel has also relied upon the judicial precedents of Hon'ble Supreme Court in ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. (2010) 7 SCC 667, Geeta Malhotra and Another Vs. State of U.P. And Another, 2013 AIR (SC) (Crl) 21, K. Subba Rao V. The State of Telangana (2018) 14 SCC 452 and Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors., Criminal Appeal No.195 of 2022.***

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

Admittedly, the marriage of the complainant took place with Nicky Vaid on 11.5.2015. Soon after the marriage the matrimonial discord took place between the complainant, her husband and in-laws. There are specific allegations of causing cruelty and harassment to the complainant on account of demand of dowry. There is no dispute regarding the judicial precedents of the Hon'ble Supreme Court relied upon by counsel for the petitioners. Be that as it may, the parental home of complainant is in Ambala and the petitioners have been living in Nigeria and Mumbai. However, as per the law settled by Hon'ble Supreme Court in ***Rupali Devi's*** case (supra) the overt act committed by the petitioners could be at the matrimonial home, however, the mental agony suffered by the complainant wife continued even at the places she took shelter after having been separated from her in-laws. The complainant after separation is living at Gurugram and the mental agony continues even after her separation from her matrimonial home. In the light of the law settled by the Hon'ble Supreme Court, this court does not find any merit in the arguments raised by

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counsel for the petitioners that the investigating agency had no jurisdiction to investigate the FIR in question. The allegations and counter allegations are totally disputed questions of facts and the same need a thorough and fair investigation. The veracity of the same would be assessed by the Trial Court only after evaluation of the evidence adduced on record by the respective parties.

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:-*
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> ***(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 ac- cused;*
>
> *(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 investi- gation by police officers under Section 156(1) of the Code except under an*

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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 institu- tion 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."

The 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 and the criminal proceedings ought not to be scuttled at the initial stage. Similarly the Hon'ble Supreme Court in ***State of Tamil Nadu Vs. S.Martin and others (2018) 5 SCC 718*** has held that assessment made

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by the High Court at a stage when investigation was yet to be completed is completely incorrect and uncalled for.

Learned counsel for the petitioner has been unable to satisfy this Court that how the present case is a fit case to invoke its inherent jurisdiction under Section 482 Cr.P.C in the light of the law laid down by the Hon'ble Supreme Court in the above mentioned judicial precedent.

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 allowing invoking of the inherent powers under Section 482 Cr.P.C by this Court. 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 to be led before it.

Thus, this Court is of the opinion that the case of the petitioners does not qualify for exercising its powers under Section 482 Cr.P.C. Resultantly, the petition being devoid of any merit is hereby dismissed. However, nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

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

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