

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 21.12.2022

1. CRM-M-21851-2022 (O&M)

Ramandeep Kaur

..... Petitioner

versus

State of Punjab and another

..... Respondents

2. CRM-M-53379-2022

Nohar Chand and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.V.S. Chugh, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

Mr. Achin Gupta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present judgment, I intend to dispose off above said two petitions as common question of law and facts are involved therein. For the sake of convenience, facts are being taken from CRM-M-21851-2022.

2. Present petitions have been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0376 dated 18.11.2021, registered for the offences punishable under Sections 451, 323 and 506 of IPC, at Police Station City Faridkot, District Faridkot.

3. As per the allegations levelled in the FIR, it has been alleged that:-

“Copy of application no. 463 PC 8/21 dated 21.09.2021 from Akshay Giri son of Chand Pal resident of Near Gurudwara Tilla Baba Farid, Opposite Jain School, Faridkot, Tehsil and District Faridkot M. No. 62838-13700, after inquiry SI Labh Singh station house officer, P.S. City Faridkot and after recommendation from Sh. Ravi Sher Singh PPS Deputy Superintendent of Police Sub Division Faridkot as per order of Hon'ble Senior Superintendent of Police Faridkot has been received in the police station for registration of case, the copy of which is as follows, "To, Hon'ble SSP Sahib Faridkot, Subject: For taking action against 1. Nohar Chand son of Tarsem Lal (M. No. 98888-15703), 2. Gagandeep son of Tarsem Lal (M. No. 99881-88025), 3. Balraj son of Tarsem Lal, 4. Kirna Devi wife of Tarsem Lal, 5. Ramandeep Kaur D/o Tarsem Lal and 5-6 unidentified persons residents of Hanuman Mandir Street, Near Bus Stand, Budhlada, District Mansa. Sir, it is requested that I Akshay Giri son of Chand Pal am resident of Near Gurudwara Tilla Baba Farid, opposite Jain School, Faridkot, Tehsil and District Faridkot. Around 13-14 months ago my marriage was solemnized with Ramandeep Kaur D/o Tarsem Lal, resident of Hanuman Mandir Street, Near Bus Stand Budhlada, District Mansa. Around 20 days ago, my wife Ramandeep Kaur went to her paternal house. That on 19.09.2021 above stated persons went to my house at around 4-5 p.m. evening, whereas I had gone to Ludhiana on that day and on seeing my house locked all these persons came to the house of my father and who had taken any M.C. or any other

respectable persons along them and nor they gave me any intimation with regard to their coming, on the other hand they forcibly entered in the house of my father, there they quarreled with our family members, rebuked and pulled hair of head of my elder sister in law Priyanka, there they raised alarm in high volume and insulted us in the Mohalla. My father used to remain ill and is on bed rest, whom also they beaten up. They also beaten up my mother and pushed my younger sister. My old grandmother was also pushed and rebuked. Vipin Kumar son of Dalip Kumar, Monu Giri son of Laxmi Narayan and Satish Grover husband of Uma Grover at present M.C. came to the spot and who stopped the above stated persons from doing so and while going they threatened that they will kill us all. The cause of grudge is that my wife used to threaten of committing suicide, that she will kill herself and will implicate you all. Due to which we had told her brothers regarding the conversations made by her and they had come and had taken Ramandeep Kaur alongwith them and later they had come to house of my father and have attacked my family and have threatened of elimination. We have threat of life and liberty from them. So, required legal action be taken against them and justice be provided. I will be grateful to you. Sd/ Akshay Giri son of Chand Pal Near Gurudwara Tilla Baba Farid, Opposite Jain School, Faridkot, Tehsil and District Faridkot.”

4. Counsel for the petitioner submits that from bare perusal of FIR, no offence is made out against the petitioner. He submits that keeping in view that the petitioner was entering her own matrimonial house, offence under Section 451 will not be made out. Likewise, there

is no medical evidence to support the allegations levelled against the petitioner qua offence punishable under Sections 323 and 506 of IPC is non-cognizable. He thus submits that that it is a case which would fall within the parameters as laid down in '*State of Haryana and others vs. Ch. Bhajan Lal and others*' reported as *1992 SCC (Cri) 42* where this Court should exercise its jurisdiction vested under Section 482 to quash the FIR. In support of his arguments, he relies upon judgment passed by Delhi High Court in '*Kavita Dass vs. NCT of Delhi and another*', reported as *RCR (Criminal) 2437*.

5. Per contra, Counsel for the State submits that so far as incident is concerned, probably the petitioner is not in a position to deny the same, as the petitioner herself complained of the incident giving her own version which has been placed on record as Annexure P-2. The same reads as under:-

“It is requested that I have been married from Budhlada City since year 2019 with Akshay Giri son of Chand Pal Giri. When my daughter Sivika took birth then from that time 2020 the above stated all family members are harassing me and are asking me that why boy child has not taken birth and I requested them a lot and told them that this is a gift of god and I be permitted to live happily in my house. But today on 19.09.2021, me alongwith my paternal family came to my house at Faridkot, when we started entering my house then my mother in law, sister in law (Jethani), sister in law (Nanad) and my father in law used much bad words and tried to give slaps and called M.C. Satish Grover their neighbor on phone and M.C. also stated that I will not let the girl live

here in this house. So, legal action be taken against them.”

6. He thus submits that at this stage, while exercising jurisdiction under Section 482 Cr.P.C. this Court cannot conduct mini trial and thus the present petition seeking quashing of FIR would not be maintainable.

7. Mr. Achin Gupta has reiterated the arguments raised by counsel for the State.

8. I have heard counsel for the parties and have gone through the records of the case.

9. In a case relied upon by counsel for the petitioner i.e. Kavita Dass (supra), the FIR was registered for offence punishable under Section 448 of IPC involving the following facts:-

“xx xx xx

3. Brief facts of the case are that the petitioner got married to respondent No.2 on 26.12.1975 at Delhi. After marriage, the petitioner and respondent No.2 lived together in abroad (Sri Lanka and Australia) as husband and wife for 12 long years. Two sons were born out of the said wedlock in 1978 and 1981 respectively. The elder son Rajad Das is married and settled in London while the younger son has been living in Delhi.

4. In 1992, the respondent No.2 acquired a license to start his own company in the name & style of “Forex Company”. Accordingly, the couple came back to India and started living in a rented accommodation bearing address C-293, Defence Colony, New Delhi. During their stay in India, the respondent No.2 came in contact with another

woman, a spinster and fell in love with her. This was a flash point in the relationship. All efforts were made by the petitioner to convince the respondent No.2 to give up the illicit liaison with another woman, however, failed.

5. The situation further became worst. The respondent No.2 as a part of a well planned act, sometime in July, 2009 left the premises C- 293, Defence Colony, New Delhi and abandoned the petitioner/wife. Thereafter, respondent No.2 in connivance with the then landlord, got an eviction order in a suit filed against himself as well as the petitioner/wife. The aforesaid suit for eviction was decided ex parte in favour of the then landlord, accordingly, petitioner was forced to leave the shared household, i.e. C-293, Defence Colony, New Delhi on 25.08.2010.

6. After the eviction, the petitioner was literally came on road and was forced to take shelter at her brother-in-law's house at C-52, Defence Colony, New Delhi. Petitioner stayed there from 25.08.2011 till 16.04.2011. Around July, 2009, the respondent No.2 after abandoning the petitioner, filed a divorce petition bearing No.1079/2009 against her which is pending before Ld. Additional District Judge, Saket District Courts, New Delhi.

7. In addition to the divorce petition, the respondent No. 2, around September, 2009 coerced and virtually cajoled the petitioner to sign an out of court memorandum of understanding (MOU) by absolutely fraudulent means of representation, wherein, the respondent No. 2 had stated that he would pay the permanent alimony of Rs.45lacs to the petitioner against a divorce by mutual consent.

8. Accordingly, on the basis of the aforesaid MOU, the respondent No. 2 filed a petition for divorce and dissolution of marriage on the basis of mutual consent, however, till date not even the first motion has taken place as the petitioner realized that her signatures on the MOU were obtained by fraudulent representations. As such she did not act upon the said MOU being well within her rights to do so.

9. The petitioner was compelled and constrained to approach trial court with complaint filed under [section 12](#) of the Domestic Violence Act, seeking interim measures and interim relief in accordance with provisions of the said Act and in the facts and circumstances of the case, the trial court vide interim order dated 10.09.2010 directed the respondent No. 2 to pay an amount of Rs.10,000/- to the petitioner as an interim maintenance, as well as monthly rent of Rs.25,000/- from the date of petitioner's eviction from the then shared household.

10. Subsequently, the petitioner in the month of April, 2011 came to know that the respondent No. 2 had taken another premises bearing address D-12, Defence Colony, New Delhi on rent. Accordingly, on 17.04.2011, she entered in to her new matrimonial home D-12, Defence Colony, New Delhi with the help of Protection Officer Ms.Preeti Saxena, who handed over to her the keys of the front door, bedroom door and balcony door from the respondent. Since then, the petitioner has been residing with respondent No.2 at the aforesaid rented shared accommodation.

11. Thereafter, the petitioner on 18.04.2011, moved an application in the court of Ld. MM, Ms. Pooja Talwar, Saket District court seeking protection against

her removal from the aforesaid shared household i.e D-12 Defence Colony, New Delhi. An interim order dated 19.04.2011 u/s 17 and 19 of the [D.V. Act](#) was passed by the above named Ld. Magistrate, whereby the petitioner was granted right to live with the respondent No.2 in above mentioned shared household. However, subsequently, Ld. MM vide order dated 28.04.2011 vacated the earlier order dated 19.04.2011.

12. In the order dated 28.04.2011, Ld. MM observed that the present premises was not a shared household. The petitioner while signing the MOU was fully aware that she had to vacate the said premises, therefore, there was no reason for the petitioner to enter the house of respondent No.2 forcefully, accordingly, the Ld. MM directed that the petitioner may be removed from the premises by taking due recourse of law.”

10. There cannot be any quarrel with the proposition that a married woman has a right to enter into her matrimonial house and no offence for criminal trespass can be possibly made out till the relation between parties gets snapped by decree of divorce granted by a competent Court. However, the specific allegation in the present case levelled against the petitioner is that she entered into the house belonging to the father of the complainant and not the matrimonial house. Thus, at this stage, this Court while exercising jurisdiction under Section 482 Cr.P.C. cannot return a finding that the house belonging to the father of the complainant was a matrimonial house of the petitioner or not. The same is an issue which be decided in trial.

11. In view of the aforesaid facts, this Court does not find that the present case(s) falls within the parameters of law laid down in *Bhajan Lal's* case (supra). Consequently, the present petitions are dismissed.

12. Since the main case(s) has been decided, pending miscellaneous application(s), if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

21.12.2022

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No