

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(143)

CRM-M-28304-2022

Date of decision:-18.07.2022

RAVI KUMAR AND ANOTHER

... Petitioners

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Kamlesh, Advocate
for the petitioners.

Ms Deepshikha Chauhan, AAG, Haryana
for State-respondent No.1.

...

SUVIR SEHGAL, J. (ORAL)

Challenge in the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”) is to FIR No.0001 dated 02.01.2022, registered at Police Station Women, Ballabgarh, District Faridabad, Annexure P-1, for offences under Sections 323, 406, 498-A, 506 and 34 of the Indian Penal Code, 1860 and challan presented under Section 173 of the Code, Annexure P-2, before the Judicial Magistrate First Class, Faridabad.

Factual matrix leading to the filing of the present petition is that FIR, Annexure P-1, has been registered on the complaint of Sampa Thakur on the allegation that she was married to Ravi Kumar (petitioner No.1) on

01.12.2006. It was a love marriage. However, later with the mutual consent and in the presence of the parties, marriage was performed again. Her parents had spent beyond their capacity and given household items including furniture, white goods, gold and silver jewellery etc., list of which has been attached with the application, but the accused were not satisfied with the dowry items and started harassing her. Demand of a *Honda City* car and cash of Rs.10 lacs was made, however, when it was not fulfilled, they physically assaulted her. Her difficulty got compounded as she could not bear a child for two years after marriage. Her first daughter was born on 07.06.2010 and her agony increased, when she became pregnant the second time. The accused started insisting on a pre-natal examination and told her that in case she conceived a girl child, they would get the fetus aborted. The complainant resisted and when she gave birth to her second daughter on 05.06.2013, their behavior became even more cruel towards her and her daughters. Her husband, who works in M/s Biba Apparel Private Limited, used to frequently go out on company tour and return late at night inebriated and when she objected, she was physically assaulted. She started suspecting his movements and caught him with accused No.7 at her apartment. When confronted, he admitted that she was his second wife. She possesses a video recording of this incident, which took place on 10.09.2020. She was slapped by her husband, who behaved indecently with her and used derogatory language, even though she had called the police, they did not take any action. The very next day on 11.09.2020, she went to her paternal home and submitted a complaint with the police. Her husband

admitted his mistake and assured that he would not have any relation with accused No.7 and would remain loyal to the complainant. Taken in by his words, she withdrew the complaint. However, there was no change in his attitude. He did not take her back to her matrimonial home and on 16.01.2021, when she went to her matrimonial home, she was not allowed to enter nor was she returned her personal belongings and *Istridhan*. Another complaint was given by her to the police on 22.01.2021, but once again the accused apologized and coerced her into withdrawing the second complaint. Situation still did not improve forcing her to submit yet another complaint on the basis of which FIR, Annexure P-1, has been lodged.

Counsel for the petitioner has urged that the complainant submitted two complaints over the period of time, but withdrew them and she has not levelled any allegation of misappropriation of dowry articles or of cruelty and impugned FIR has been registered on the basis of an improved version. It is her argument that the allegations levelled in the FIR are general, no specific dates of incidents have been given and the statement recorded by the complainant under Section 161 of the Code is not in consonance with the allegations in the FIR. She submits that the couple had a love marriage and no dowry was given. According to her, ingredients of the offences alleged, are not fulfilled. She submits that all the family members have been embroiled on the basis of false allegations.

Advance copy of the petition has been served upon the State.

Upon instructions received from HC, Sudesh, State counsel has made a reference to the final reports submitted by the Investigating Agency,

Annexure P-2, to submit that except for the petitioners, who are the husband and father-in-law of the complainant, the allegations against the other accused have not been proved and their names have been kept in Column No.2. She has opposed the petition on the ground that the pleas being taken by the petitioners, are all matter of defence, which can be taken by them during the course of the trial.

I have heard counsel for the parties.

It has been held by the Supreme Court in ***Veena Mittal Versus State of Uttar Pradesh and others, 2022 (1) RCR (Crl.) 818*** that at the stage when the High Court considers the petition for quashing criminal proceedings under Section 482 of the Code, the allegations in the FIR must be read as they stand and it is only if on the face of the allegations that no offence, as alleged, is made out, that the Court is justified in exercising its jurisdiction to quash the proceedings. The High Court is neither required to conduct a mini trial nor to appreciate the evidence in the exercise of inherent powers.

Adverting to the facts of the case in hand, a perusal of the impugned FIR reveals that there are specific allegations against the petitioners of maltreating and cruel behavior towards the complainant. There are also allegations of physical assault as well as misappropriation of *Istridhan* articles. The earlier complaints, submitted by the complainant, were withdrawn by her on the assurance given by the accused and have been duly explained by her in the FIR. A perusal of both those complaints shows that accusation have been levelled against the accused of inhuman

treatment as well as of non-return of the dowry articles. Therefore, it cannot be said that FIR, Annexure P-1, has been registered by the complainant by improving her version. Allegations levelled in the FIR *prima facie* constitute offences complained of and this Court does not intend to enquire into their genuineness or reliability. Challan has been presented by the Investigating Agency on the basis of the material collected by it during investigation. The submission of the petitioners regarding their false implication can be raised by them during the course of trial.

In view of the above position, there is no merit in the petition, which is hereby dismissed with no order as to cost.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

18.07.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No