

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

CRM-M-32489-2022

Date of decision : 28.07.2022

Renu

.....Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Manjeet Singh, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the FIR No.89 dated 29.12.2020, under Sections 406, 498-A of IPC, registered at Police Station Women, Ludhiana and the report under Section 173 Cr.P.C. along with consequential proceedings arising therefrom, on the basis of merits.

As per the facts of the case, present FIR was lodged by the complainant namely, Pooja. The crux of the allegations in the FIR is that the complainant was married with Kuldeep Singh on 29.01.2019. The parents of the complainant gave sufficient dowry as per their capacity to her in-laws. However, soon after the marriage, in-laws of respondent No.2 were not satisfied with the same and thus, they started harassing her on account of demand of dowry. The complainant made allegations against her husband, mother-in-law Bhabri Devi, sister-in-law (Jethani) Renu i.e. the petitioner. After investigation, the police presented the challan against the accused and the trial Court took the cognizance.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case.

He submits that the petitioner was married to Sandeep Singh on

16.02.2015. He submits that the husband of the petitioner was serving in Axis Bank Limited since the year 2012 and she stayed with her husband. He submitted that as the petitioner is living separately from the complainant, thus, there was no occasion for her to cause the harassment as alleged. He has submitted that the FIR has been lodged by respondent No.2 on account of her matrimonial differences with her husband. However, the petitioner has been falsely implicated in the same. He submits that the father-in-law of the petitioner lodged the complaint dated 09.08.2019 to the Superintendent of Police, Bhiwani for taking action against respondent No.2. On the basis of the same, the settlement was arrived at between the complainant and her family on one side and husband and his family on the other side. He has submitted that an amount of Rs.19.00 lacs was received by respondent No.2 and her family and it was agreed that in case respondent No.2 and her family members breached the settlement arrived, they would be bound to return the sum of Rs.19.00 lacs. He has submitted that however, despite all this, respondent No.2 maliciously lodged the present FIR only to harass the petitioner. He has submitted that the petitioner has been granted anticipatory bail by the Court which further strengthens her false implication in this case. Learned counsel for the petitioner has submitted that the petitioner is not only falsely implicated in this case but the same is within the act of vengeance so as to implicate the maximum family members of the in-laws. He submits that the prosecution of the petitioner is nothing but an abuse of the process of the Court in view of the law settled by the Hon'ble Supreme Court in plethora of judgments and thus, the FIR in question deserves to be quashed.

I have heard counsel for the petitioner and perused the record.

The relationship between the petitioner and respondent No.2 is an admitted fact. The marriage in question took place on 29.01.2019 and from the reading of the FIR, there are specific allegations made by respondent No.2-complainant against the petitioner and other co-accused regarding demand of dowry which includes the demand of Creta Car and a sum of Rs.20.00 lacs in cash. There are allegations pertaining to taunting given by the petitioner for humiliating the complainant-respondent No.2. It is further alleged that the petitioner and her husband also came at the matrimonial home and pressurized respondent No.2 for asking her father to give Rs.10.00 lacs for running a separate business for her husband. On her denial, she was given beatings by the mother-in-law, sister-in-law (petitioner) and brother-in-law. Thus, reading of the FIR shows that there are specific allegations against the petitioner. Thereafter, various complaints were filed by the parties against each other as argued by counsel for the petitioner and the matter was settled between them. It further shows the dispute has been raised by both the families. However, the veracity of the allegations is to be assessed only by a thorough trial by the trial Court after the parties lead their respective evidence. The allegations and the counter-allegations are purely a disputed question of facts. While exercising the power under Section 482 Cr.P.C., this Court cannot go into the disputed question of facts which are prevalent in the case in hand.

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.*

The Hon'ble Supreme Court in Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303 has laid down the following parameters:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to

quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would

tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Besides this, Hon’ble the Supreme Court time and again has cautioned the High Courts not to use the jurisdiction under Section 482 Cr.P.C. in a cavalier manner. The High Court is to use the power under Section 482 Cr.P.C. with great circumspection and sparingly.

Weighing the facts and circumstances of the present case on the anvil of the law settled, this Court is of the opinion that the case in hand do not qualify for invoking the powers by this Court under Section 482 Cr.P.C. in favour of the petitioner. Resultantly, the petition being devoid of any merits is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

28.07.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No