

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

CRM-M-32824-2022

Date of decision : 28.07.2022

Rahul

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Nikhil Vats, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing the FIR No.61 dated 24.05.2021, under Sections 313, 406, 498-A, 509 of IPC (Section 323 IPC added later on and Section 313 IPC was deleted), registered at Police Station Women West Gurugram, District Gurugram along with further proceedings arising therefrom including charge framed vide order dated 07.03.2022.

As per the facts of the case, the present FIR was lodged by respondent No.2. The crux of the allegations in the FIR are that respondent No.2 was married with petitioner-Rahul on 25.03.2020. It was alleged that her father is a cancer patient and is undergoing treatment. Her parents gave her sufficient dowry in her marriage as per their capacity, however, her husband and in-laws were greedy people for dowry and they started harassing her after marriage on account of demand of dowry. They gave her taunting for bringing less dowry. On her refusal to fulfill their unlawful demands, she was beaten by the petitioner. She pleaded that her father is a cancer patient and his financial condition is not good but despite that, petitioner and his family did not deter on their demand

and continued harassing her unabated. While she was pregnant, she was kicked in her stomach, due to which, she suffered miscarriage. Having no other alternative, she lodged the FIR for taking the legal action against the petitioner and other family members.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He further submits that no offence as alleged is made out on reading of the allegations. However, this case carried a tainted investigation. The challan is presented against the petitioner. He submits that the family of the complainant sent anti-social elements to the petitioner's home and threatened him to compromise with the situation. It has been argued that the complainant left the matrimonial home of her own without any rhyme and reason and thereafter, she filed a petition under Section 125 Cr.P.C. for granting maintenance. He submits that the dispute between both the families could not be resolved due to the adamant behaviour of the complainant and her family. He has submitted that the case of the petitioner is covered by the judgment titled as State of Haryana and others Vs. Bhajan Lal and others, (1992) Supp. (1) 335. He further submits that the prosecution of the petitioner is nothing but an abuse of the process of the Court.

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

Admittedly, the marriage between the petitioner and the complainant was solemnized on 25.03.2020. After the marriage, due to the matrimonial discord, the FIR was lodged by the complainant-respondent No.2. Reading of the FIR shows that there are specific allegations against the petitioner and the in-laws regarding demand of

dowry, giving taunting to the complainant and beating her. The matter was investigated and the challan is presented. The petitioner before this Court is a husband of the complainant-respondent No.2. The arguments raised by counsel for the petitioner regarding his false implication are the disputed question of facts which can be decided only after leading the evidences by the parties before the trial Court.

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.”

Weighing the facts and circumstances of the present cases 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