

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(112)

CRM-M-36981-2021
Date of Decision: 02.08.2022

Swarnjit Kaur Mallah

--Petitioner

Versus

State of Punjab & another

--Respondents

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

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

Mr. Rakeshinder Singh Sidhu, A.A.G., Punjab.

Mr. Hitesh Verma, Advocate for respondent no.2.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of FIR No.0003 dated 2.6.2020 under Sections 406, 498-A IPC, registered at Police Station, NRI Sangrur and all the subsequent proceedings arising therefrom.

As per facts of the case, respondent no.2 was married to the son of the petitioner namely Satinderpal Singh on 27.1.2017. After the marriage, father-in-law of respondent no.2 died due to cancer on 2.2.2017. Soon after his death her brother-in-law, sister-in-law and mother-in-law in connivance with each other started harassing respondent no.2. She was persistently being given tauntings for bringing insufficient dowry. Her husband and mother-in-law both shifted to Canada, whereas the complainant-respondent no.2 was left in India. The complainant was never taken to Canada by her husband. As the harassment and cruelty kept increasing the complainant lodged the present FIR for taking legal action against the accused.

Learned counsel for the petitioner has vehemently contended that petitioner is the mother-in-law of the complainant. She is living in Canada and has no occasion whatsoever for causing harassment to the complainant. He submits that the allegation regarding concealing the fact of first marriage by the husband of the complainant is totally false and frivolous as in the marriage certificate it was clearly mentioned that Satinderpal Singh is a divorcee. He submits that the marriage took place on 27.1.2017, whereas the FIR has been lodged on 2.6.2020 and in between there is no complaint whatsoever on behalf of the complainant against the petitioner. He submits that the marriage between the husband and wife was broken and despite best efforts the complainant was not ready and willing to reside with the son of the petitioner in Canada. Then he filed a divorce petition in Canada and the Hon'ble Supreme Court of British Columbia has passed final decree of divorce on 5.3.2020. As an act of vengeance respondent no.2 has filed the present FIR on 2.6.2020. Counsel has relied upon the case of ***Harsh Vardhan Arora V. Smt. Kavita Arora, 2002(2) RCR (Crl.) 499*** to substantiate his submissions. He has also relied upon the provisions of Section 188 Cr.P.C pertaining to the offence committed outside India. Counsel submits that the cause of action, if at all accrued in Canada and thus there was no occasion for the complainant to lodge an FIR in India. He submits that no offence under sections 498-A and 406 IPC is made out against the petitioner. There is not even entrustment of any dowry articles.

Learned counsel for the complainant has vehemently opposed the submissions made by counsel for petitioner and submits that there are

specific allegations against the petitioner.

On the other hand, learned State counsel submits that the matter is under investigation and the accused and her son have not joined the investigation till date. He submits that a lookout notice under Section 105 Cr.P.C against the petitioner and her son has been issued and petitioner is required for the investigation of the case.

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

Admittedly, petitioner is the mother-in-law of the complainant-respondent no.2. There are specific allegations pertaining to demand of dowry and thus causing harassment and cruelty to the complainant by the petitioner. Marriage in question had taken place in India and thereafter both the mother-in-law and husband of complainant shifted to Canada. The complainant has been virtually deserted by her husband and in-laws. From the arguments advanced by counsel for petitioner, the same pertains to the disputed questions of facts. 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:-

(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 F.I.R. 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 **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 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 petitioner 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

02.08.2022

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