

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

CRM-M-36515-2022

Date of decision : 18.08.2022

Suresh Kumar

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sumit Sangwan, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court by way of filing petition under Section 482 Cr.P.C. praying for quashing of FIR No.0113 dated 27.05.2021, under Sections 323, 34, 406, 498-A, 506 of Indian Penal Code (later on Section 34 of IPC deleted), registered at Police Station Women Police Station Jhajjar, District Jhajjar along with consequent proceedings arising therefrom.

As per the facts of the case, the FIR in question was lodged by complainant-Reena Devi. The sum and substance of the allegations in the FIR is that her marriage was solemnized with Suresh Kumar on 18.10.2020 as per Hindu rites and ceremonies. Her parents gave sufficient dowry in the marriage as per their capacity. However, after the marriage, she found that her in-laws were not satisfied with the dowry given by her parents. They started harassing her physically and mentally by taunting her for bringing less dowry. Her husband pressurized her by demanding a car to be given by her parents. On 16.12.2020 all the accused mentioned in the FIR gave beatings to her and pressurized her for bringing car from her parental home. She had to give a call to the police at No.100.

Thereafter, a compromise was effected between her and her in-laws. However, few days thereafter, they again continued harassing her. Having no other alternative, she lodged the present FIR.

Learned counsel for the petitioner has vehemently contended that the prosecution of the petitioner in the FIR is nothing but an abuse of the process of the Court. He has submitted that the petitioner has been falsely implicated in this case. He has further submitted that the marriage was performed with simple ceremonies and no dowry whatsoever was taken by the petitioner. Thus, there was no occasion for demanding any dowry from the complainant. He contends that since beginning the complainant-wife kept harassing the husband and his family members. Despite their best efforts, she did not mend her ways and kept on humiliating the petitioner and his family members with the aid of her parents. He has submitted that the petitioner was constrained to move a complaint before the Superintendent of Police, Charkhi Dadri on 15.02.2021 by disclosing the conduct of his in-laws and wife. Consequently, both the parties were called in the police station and their statements were recorded. The complainant did not allege any allegation regarding demand of dowry in her statement. The allegations regarding harassment and beating were found to be false during the inquiry conducted by the police. He submits that in counter-blast to the complaint filed by the petitioner, the complainant on advice of her parents, lodged the present FIR against the petitioner and his other family members. He has submitted that lodging of the FIR is against the guidelines laid down by the Hon'ble Supreme Court. He submits that there is no specific date and time of any incident mentioned by respondent No.2 and the

allegations made are obvious in nature. He further submits that respondent No.2 has left the matrimonial home on her own wish from Bhattu Kalan, District Fatehabad and thereafter, lodged the FIR at Jhajjar. He submits that the Jhajjar Court has no jurisdiction to entertain the FIR. He has relied upon judgments titled as Arnesh Kumar Vs. State of Bihar and others, 2014(3) RCR (Criminal) 527; Y.Abraham Ajith and others Vs. Inspector of Police, Chennai and another, 2004(3) RCR (Criminal) 988; Manish Ratan and others Vs. State of M.P. and another, 2007(1) RCR (Criminal) 513; Bhura Ram and others Vs. State of Rajasthan and another, 2008(2) RCR (Criminal) 761; State of Haryana Vs. Bhajan Lal and others, 1991(1) RCR (Criminal) 383 and Rajahs Kumar and others Vs. State of Haryana, 2008(2) RCR (Criminal) 835 and Jasjit Singh Bakshi and others Vs. State of Punjab and another, 2008(3) RCR (Criminal) 170.

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

Admittedly the petitioner was married with respondent No.2 on 18.10.2020. However, after some time of marriage, the matrimonial life of both ran into rough weather. Resultantly, the complainant lodged the FIR in question. Petitioner is the husband of the complainant. The FIR contains the allegations pertaining to taunting and beating the complainant on account of demand of dowry. The investigation commenced and the police submitted the report under Section 173 Cr.P.C. From the arguments raised by the counsel for the petitioner, it is evident that the same are based on disputed question of facts. Hon'ble the Supreme Court has time and again reiterated that the inherent power under Section 482 Cr.P.C. should not be invoked in a cavalier manner. The Court should be circumspect while invoking this power.

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.*

In all its humility, there is no dispute regarding the judicial precedents relied upon by learned counsel for the petitioner, however, in the facts and circumstances of the present case, the same are distinguishable.

Weighing the present petition on the anvil of the law settled, this Court is of the opinion that the petitioner is not entitled for invoking its inherent power under Section 482 Cr.P.C. in his favour. 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.

18.08.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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