

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-37934-2022

Date of Decision: August 25, 2022

Gurwinder Singh

... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Swarn Tiwana, Advocate,
for the petitioner.

Vivek Puri, J.

Petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short `Cr.P.C.') invoking its inherent jurisdiction for quashing of FIR No. 43, dated 09.04.2019, under Sections 323, 498-A, 406, 506, 34 of the Indian Penal Code (for short `IPC'), registered at Police Station Women, Kaithal, District Kaithal and all other consequential proceedings arising therefrom.

Briefly, the FIR has been registered on the basis of the complaint submitted by respondent no.2 alleging that her marriage was solemnized with the petitioner on 13.11.2016. The petitioner along with his parents were not happy with the dowry articles and was being harassed and

taunted on that score. On 20.12.2016, the petitioner had given beatings to the complainant and further stated that till the demands are fulfilled, she will be treated in the same manner. On 26.12.2017, the complainant gave birth to a male child. The petitioner had also threatened to kill the brother of the complainant and she was given merciless beatings. Thereafter on 29.03.2019 her family members took her back and the petitioner has forcibly snatched the son of the complainant along with her educational documents. The petitioner has refused to return the dowry articles.

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

Learned counsel for the petitioner has argued that the petitioner is employed in BSF. The matrimonial dispute has been amicably settled between the parties in terms of the panchayati compromise (Annexure P-2). The complainant is voluntarily residing in her parental house and had also received her ornaments. It has been pointed out that though the date has not been specifically mentioned, but the panchayati compromise (Annexure P-2) was executed on 29.03.2019. The FIR has been registered subsequently on 09.04.2019 as a result of afterthought on the basis of the complaint, which was submitted on 04.04.2019.

The powers vested under Section 482 of Code of Criminal Procedure are extra-ordinary in nature and are required to be exercised with a view to secure justice. The powers are not intended to be used to obstruct justice or cause impediment in its dispensation. The inherent powers vested in the High Court are required to be exercised in exceptional cases to prevent a miscarriage of justice and abuse of the process of Court or otherwise secure ends of justice. The power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in rarest of rare cases. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise the allegations as set out in FIR/complaint/charge-sheet. The inherent powers cannot be allowed to be exercised to stifle or hamper a legitimate prosecution.

In ***Criminal Appeal No. 873 of 2021 decided on 24.8.2021 (Saranya Vs. Bharathi and another)***, it has been held by the Supreme Court as follows:-

*“In the case of Deepak (supra), to which one of us (Dr. Justice D.Y. Chandrachud) is the author, after considering the other binding decisions of this Court on the point, namely, **Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460; State of Rajasthan v. Fatehkaran Mehdu***

(2017) 3 SCC 198; and Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605, it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused charge-sheeted or against whom the charge is framed is likely to be convicted or not.”

On advertng to the merits of the case, it is significant to note that the complaint was submitted against the petitioner and his parents. However, the FIR has been registered only against the petitioner. The main plank of

argument on behalf of the petitioner is to the effect that the matrimonial dispute has been amicably settled in terms of the panchayati compromise (Annexure P-2) and despite that, the FIR has been registered and the same is misuse of process of law.

It may be mentioned here that it will be too early to accept the genuineness of any such compromise. The authenticity of any such document will be looked into and is to be adjudicated during the course of trial. Even otherwise, the compromise does not indicate that the complainant had agreed not to initiate any action against the petitioner. Furthermore, there is nothing to suggest that the complainant has taken any advantage out of the said panchayati compromise and subsequently resiled and refused to perform obligations imposed upon her. The execution of any such panchayati compromise will be defence version of the petitioner and its genuineness and probability is to be looked into during the course of trial. There are specific and categoric allegations with regard to the demand of dowry, mal-treatment and harassment meted out to the complainant on that score. The allegations levelled in the FIR disclose a prima facie case for the commission of cognizable offence by the petitioner, who is the husband of the complainant.

Keeping in view, the entire circumstances, no justified ground is made out to invoke the inherent powers of this Court to quash the FIR in question and consequential proceedings arising therefrom.

Present petition is dismissed, accordingly.

August 25, 2022
vkd

(Vivek Puri)
Judge

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