

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

CRM-M-39048-2022
Date of decision: 31.8.2022

Jasbir Kaur Nijjar

..... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manvender S. Chauhan, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

The present petition has been filed for quashing of FIR No.92 dated 29.10.2019, registered under Section 498-A IPC, at Police Station Badali Ala Singh, District Fatehgarh Sahib and all the consequential proceedings arising therefrom.

As per the factual matrix of the case, the present FIR was lodged by the complainant Vipandeep Kaur, wherein, it was alleged that the petitioner and the co-accused committed fraud, cheating and harassment on account of demand of dowry with the complainant. It was alleged that the complainant is MCA qualified and hence, used to do private job in IT company. She was married with Ravinder Bir Singh Gill on 24.2.2017 with the consent of both the families. In the marriage her parents gave enough dowry beyond their capacity. The husband and mother-in-law i.e. the petitioner are residing in Canada and mother-in-law used to visit India as well. However, after marriage matrimonial discord took place on account of demand of dowry raised by her in-laws. She was pressurized to bring hefty amount of cash for taking her to Canada. The complainant was left in India, however, her in-laws went back to Canada after marriage. Her mother-in-law doubted her character and harassment of the complainant kept unabated. Thus, the complaint was left

with no other option, then to take legal recourse for redressal of her grievances. Hence, the present FIR was lodged.

Learned counsel for the petitioner submits that the petitioner is the mother-in-law of the complainant, who has no role to play in causing harassment to the complainant on account of demand of dowry as alleged. He has submitted that no offence as alleged is made out against the petitioner hence, her prosecution is nothing but an abuse of the process of the Court. He has submitted that it was a case of no dowry at the time of marriage. The petitioner had made it categorically clear that they do not want even a single penny from respondent No.2. He has submitted that the petitioner and her son Ravinder Bir Singh Gill are permanent resident of Canada since long and came to India only for solemnizing marriage of her son. He submits that the petitioner left India 3-4 days after the marriage and thereafter, son of the petitioner also returned to Canada in March 2017 i.e. after 10 days staying in India with his wife. He submits that just after 3-4 months of returning of the petitioner and his son, behaviour of respondent No.2 totally become unreasonable and she closed her facebook account and also blocked the numbers of the petitioner and her son on phone. He has submitted that lodging of the FIR is only to pressurize the petitioner and her son to extract huge amount from them and nothing else. He submits that from the reading of the allegations in the FIR, no cognizable offence is made out against the petitioner and hence, the present FIR deserves to be quashed.

Heard.

Admittedly, the son of the petitioner was married with respondent No.2 on 24.2.2017. The petitioner and her son both are permanent resident of Canada and after the marriage, both returned to Canada and respondent No.2

remained in India. *Prima facie*, it appears that respondent No.2 remained with her husband only for few days. There are specific allegations of demand of hefty amount from the complainant in case she wants to settle in her matrimonial home in Canada. Besides this, allegations causing harassment to the complainant on one reason or other, are also there. The marriage in question took place on 24.2.2017 and the FIR has been lodged about two years thereafter. The allegations and counter allegations give rise to the disputed question of facts, which can be unraveled only after a thorough and impartial investigation. The factual dispute can be evaluated only after a thorough trial to be concluded on the basis of the appreciation of the evidence to be led by the parties before the trial Court.

Hon'ble Supreme Court in **State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335** has held that the High Court has inherent power under Section 482 Cr.P.C. for quashing the FIR, however, the same should not be exercised for the offence falling under the heinous categories. It has been further observed in **Bhajan Lal's** (supra) 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.”

Hon'ble Supreme Court in Gian Singh vs. State of Punjab and another, (2012) 10 SCC 303, has further held as under:-

“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 the 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 the 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 pre-dominantly 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 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.”

Recently, Hon'ble the Supreme Court in the case of **Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and another**, 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.

Weighing the facts and circumstances of the present case on the anvil of the law settled, the Court is of the opinion that petitioner does not qualify for invoking its inherent jurisdiction under Section 482 Cr.P.C. in their favour. Thus, this Court finds no merit in the prayer made by learned counsel for the petitioner and hence, the present petition being devoid of any merit is hereby dismissed.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

31.8.2022
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No