

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

CRM-M-39606-2022
Date of decision: 01.09.2022

Pardeep Kumar and others

..... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sushil Kumar Verma, Advocate, for the petitioners.

RAJESH BHARDWAJ, J.

The present petition has been filed for quashing of FIR No.350 dated 10.9.2021, registered under Sections 323, 406, 498-A, 506, 34 IPC, at Police Station Civil Line, Sirsa, District Sirsa and all the consequential proceedings arising therefrom.

As per the factual matrix of the case, the present FIR was lodged by the complainant, Sonu, wherein, it was alleged that her marriage was solemnized with Pardeep Kumar on 25.11.2020. At the time of her engagement and marriage her parents gave sufficient dowry beyond their capacity. Soon after the marriage, her in-laws started harassing and humiliating her for bringing less dowry. She was taunted by saying that she has been married to a Bank Manager and the family of the complainant insulted them by not giving a big car at the time of marriage. After marriage, the complainant came to know that her husband was a divorcee and had performed love marriage with a girl, namely, Poonam. Harassment to the complainant kept going unabated and hence, she was left with no option, but to initiate the legal proceedings, which resulted in filing of the present FIR to take action against the accused.

Learned counsel for the petitioners has vehemently contended that the petitioners have been falsely and frivolously implicated in the present FIR. He has submitted that there was no demand of dowry as alleged in the FIR, rather it was the complainant, who started causing harassment to the husband and her in-laws. Despite best efforts by the petitioners, she did not cooperate and matrimonial discord took place on account of her unreasonable attitude. He submits that there are no specific allegations in the FIR and all the allegations are general and omnibus in nature. He submits that complainant-respondent No.2 has also initiated proceedings under Section 125 Cr.P.C. seeking maintenance and in that petition there is not an iota of allegation regarding illicit relationship of petitioner No.1 with petitioner No.4, as alleged in the FIR. He submits that prior to the alleged FIR, the parties were summoned by the Women Police Cell, Sirsa for amicable settlement and both the parties appeared before Women Police Cell, Sirsa on 5.4.2021. However, the complainant already by hatching a conspiracy attacked petitioner No.1 and his brother Rajesh Jangra and Rajiv Jangra and they were caused injuries by the complainant party. He submits that due to the same, FIR No.275 dated 14.8.2021, under Sections 323, 506 and 34 IPC was registered at Police Station Civil Line, Sirsa against the complainant side. He has submitted that as a counter blast to the same, present FIR was lodged by the complainant. He submits that petitioners No.2 and 3 are residing separately and they have no concern with the matrimonial life of the complainant. He submits that during investigation, the police deleted Section 377 IPC and thus, allegation of unnatural sex has been found to be false. He submits that thereafter challan/final report under Section 173 Cr.P.C was filed. He submits that in the overall facts and circumstances, the prosecution of the petitioners is nothing,

but an abuse of the process of the Court as no cognizable offence as alleged is made out against them and thus, the FIR in question be quashed.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the complainant/respondent No.2 married with the petitioner on 25.11.2020. After the marriage, matrimonial discord took place between the complainant and the petitioners i.e. her in-laws. There are specific allegations against the petitioners regarding demand of dowry and harassment caused to the complainant. Allegations are pertaining to the harassment to the complainant as her parents did not give them a big car as their son is Assistant Manager in the Bank. The allegations and counter allegations give rise to the disputed question of facts, which can be unravelled only after a thorough and impartial investigation. The factual dispute can be evaluated only after a thorough trial to be concluded by the trial Court and on the basis of the appreciation of the evidence to be led by the parties before it.

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 petitioners do 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 petitioners 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

01.09.2022
sharmila

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