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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43431-2021

Date of Decision: September 19, 2022

Vinay Gupta

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Munish Gupta, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.86, dated 07.04.2017, under Sections 498-A, 406, 506, 342, 34 IPC, registered at Police Station Women, Sector 51, Gurugram, report under Section 173 Cr.P.C., dated 04.02.2019, Annexure P-5, order framing charge dated 29.07.2019, Annexure P-6, charge sheet dated 29.07.2019, Annexure P-7, and all consequential proceedings arising therefrom.

As per the facts of the case, the petitioner solemnized the marriage with complainant-respondent No.2 on 04.02.2014. After the marriage, both the petitioner and complainant-respondent No.2 started residing together. Thereafter, the matrimonial dispute started and the same kept on widening between both of them. Resultantly, both fell apart. The complainant-respondent No.2 lodged the FIR for taking legal action against the husband and in-laws and one another woman with whom the petitioner

allegedly performed marriage during subsistence of the marriage with the complainant-respondent No.2. The sum and substance of the allegations made by the complainant-respondent No.2 that after about one and a half year of the marriage, the petitioner and the in-laws started causing harassment to the complainant on account of the demand of dowry. She was repeatedly being taunted for not bringing the sufficient dowry in the marriage as per their social status. On the pretext of carrying on the business, the husband took Rs.2.00 lacs from brother of the complainant-respondent No.2. She used to be illegally confined in the matrimonial home which compelled her to seek the police assistance. She came to know that the petitioner has relationship with one another woman, i.e. accused No.10 in the FIR. She met the woman alongwith her family members. It was informed to her that the petitioner has performed marriage with accused No.10. She was compelled by the petitioner and her in-laws to fulfil their demand of bringing Skoda car and Rs.10.00 lacs cash. The complainant-respondent No.2 left with no other alternative, filed the FIR for initiating a legal action against the petitioner and the co-accused. On registration of the same, the investigation commenced, the challan was presented and the learned trial Court framed the charges.

Counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the petitioner though performed marriage with the complainant-respondent No.2, however, the same was just to help her as she was facing through rough phase due to her family problems. He has submitted that till date, after having performed the marriage with the complainant-respondent No.2, the marriage was never consummated. He submits that the complainant

trapped the petitioner clandestinely which the petitioner realized after having performed the marriage with her. He has submitted that the complainant misused the ATM card/account/signed cheques of the petitioner and had cheated him by withdrawing more than Rs.10.00 lacs from his account. He submits that despite that the family members of complainant-respondent No.2 kept on demanding more money from the petitioner. He has submitted that once the petitioner refused to meet unreasonable demands of complainant-respondent No.2 and her family members, she filed the present FIR on the basis of false and frivolous allegations. It is further submitted that allegations are general and omnibus in nature and complainant-respondent No.2 has not mentioned any specific incident. He has submitted that there is no iota of truth in the allegations pertaining to second marriage performed by the petitioner with accused No.10. He submits that lodging of the FIR is totally an abuse of the process of the Court. He submits that petitioner has already been granted anticipatory bail by the Court. It is further submitted that in anticipatory bail, he was directed to deposit an amount of Rs.3.5 lacs, which he has already deposited. He has relied upon **State of Haryana vs Bhajan Lal**, 1992 Supp (1) SCC 335 and submitted that FIR has been lodged only as an act of vendetta and thus, prosecution of the petitioner is nothing but an abuse of the process of the Court.

Heard.

After hearing the counsel for the petitioner and perusing the record, it is apparent that relationship between the petitioner and complainant- respondent No.2 is not in dispute. Counsel for the petitioner laid emphasis primarily on the premise that though the petitioner had entered into marriage with respondent No.2, however, the same was performed only

to help the complainant-respondent No.2 during her crisis. He has submitted that the marriage is not even consummated. Though the FIR was lodged against the petitioner and the co-accused, however, after thorough investigation, challan was presented only against the petitioner and charges are also framed against the petitioner by the learned trial Court. The case is pending for examining the witnesses by the trial Court.

A bare perusal of the FIR would show that the complainant has levelled various allegations against the petitioner and the co-accused regarding causing her mental and physical harassment on account of demand of dowry. Time and again she was compelled to bring a Skoda car, cash and jewellery from her parents. It is also alleged that having not fulfilled their demands, she was illegally confined and she had to seek the help of the police. Further allegations are regarding the second marriage performed by the petitioner during subsistence of the marriage with her. She has specifically mentioned name of another woman with whom the petitioner has performed the second marriage. The overall reading of the allegations would give rise to a situation which is full of disputed questions of fact. To unravel the truth in the allegations and counter-allegations, the judicial process has to be opted. The prescribed judicial process is by leading evidences by both the parties and on appreciation of the same, the Court can draw judicial conclusion. The petitioner has approached this Court praying for invoking its inherent jurisdiction under Section 482 Cr.P.C.

The veracity of the allegations and the counter allegations can be evaluated by the trial Court only on the basis of the evidence to be produced before it by the respective parties. I am supported by the judgment

Crl.Appeal Nos.1455-1456 of 2021, decided on 11.12.2021 wherein the Hon'ble Supreme Court has held as under:-

“6.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per settled proposition of law while examining an FIR/complaint quashing of which is sought, the Court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 Cr.P.C. when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under Section 482 Cr.P.C. the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court.”

Hon'ble the Supreme Court in the case of **State of Haryana and others vs Bhajan Lal and others** (supra) laid down the parameters for exercising of inherent powers under Section 482 Cr.P.C., which reads as under:-

- “(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.”

Thereafter, Hon'ble Supreme Court in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 of the judgment reads 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 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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-dominatingly 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."

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.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court finds that case in hand fails to qualify for invoking the inherent jurisdiction. Resultantly, the present petition being devoid of any merit is hereby dismissed.

September 19, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |