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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49041-2021

Date of Decision: February 03, 2022

Chanpreet Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Lupil Gupta, Advocate
for the petitioners.

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RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The instant petition filed under Section 482 Cr.P.C. for quashing of FIR No.10, dated 02.03.2021, under Sections 498A, 406 IPC, registered at Police Station Jaurkian, District Mansa, Annexure P1, as well as all the subsequent proceedings arising therefrom.

As per the facts of the case, the present FIR was lodged by respondent No.2, i.e. the complainant. It was alleged that her marriage took place on 30.11.2018 with Chanpreet Singh, i.e. petitioner No.1. Petitioner Nos. 2 and 3 are father-in-law and mother-in-law of the complainant. It was alleged that her parents had spent Rs.7-8 lakhs on marriage as per their capacity and as per the demand of her parents-in-law but after some time of the marriage, the petitioners' family started taunting regarding the dowry articles and asked her to bring more dowry. The whole family started

misbehaving with her and gave her beatings and kept her hungry. When she was four months' pregnant, she was beaten by her sister-in-law, husband, father-in-law and mother-in-law. Finally she was thrown out of matrimonial home and due to same, her miscarriage also took place. It is alleged that she suffered a lot mentally and physically. Even after passing of ten months at her parental home, no-body came from her in-laws' family. Various panchayats were also convened by her parents, however, the greed of her in-laws was so much that her parents had no capacity to fulfill the same. The FIR was lodged for redressal of her grievances.

Learned counsel for the petitioners vehemently contends that the present FIR is nothing but an abuse of the process of the Court and the same has been lodged only to harass the petitioners. He has submitted that the complainant could not adjust herself in the matrimonial home and hence she left the same alongwith her father on 22.05.2019. It was the demand of respondent No.2 to live separately alongwith her husband from her in-laws. He submits that even the allegations regarding miscarriage are also false and frivolous as the same had occurred at her parental home and hence the petitioners cannot be held at fault. He submits that as per the settlement, petitioner No.1 handed over a demand draft of Rs.5.00 lakhs and one gold bangle (*kara*) to the Investigating Officer on 23.08.2021 who further handed over it to respondent No.2-complainant, thus, the petitioners, who are law abiding citizens have duly complied with the directions of the Court. He has submitted that in the overall facts and circumstances, the basic ingredients of Sections 406 and 498-A are not made out and hence the prosecution of the petitioners in the present FIR is nothing but an abuse of the process of the

R.Ramchandra, 2003 (1) RCR 481, State of Karnataka vs L.Muni Swami and others AIR 1977 SC 1489, B.Y.Jose and another vs State of Gujarat and another, 2009(1) SC (CrI.) 996, Ajay Mitra vs State of M.P. And others 2003(1) RCR (Criminal) page 674 and State of Haryana and others vs Chaudhary Bhajan Lal 1991(1) RCR 383 and Girish Sarwate vs State of Andhra Pradesh 2005(1) RCR (Criminal) 758.

Heard.

A perusal of the FIR would show that respondent No.2 has levelled specific allegations against the petitioners. It has been alleged that the accused have been causing mental and physical harassment to the complainant. She was being given beatings on the demand of dowry even during the period when she was pregnant. Finally, she was thrown out of the house and as a result she is living with her parents.

Learned counsel for the petitioners has advanced the arguments refuting the allegations levelled in the FIR. It has been vehemently contended that this Court should exercise its inherent jurisdiction under Section 482 Cr.P.C. for quashing the FIR.

Needless to say that the allegations and counter-allegations are purely disputed questions of fact. As per the procedure established and the law settled, the veracity of the allegations can be evaluated only on the basis of evidences to be led by the parties during the trial. During the course of the arguments, it has been brought to the notice of the Court that the case in hand is presently under investigation. Hence, it is apparent that the Investigating Agency is yet to take a final decision on the completion of the investigation. There is no dispute regarding the judicial pronouncement

not applicable in the facts of the present case. The case in hand is under investigation. The veracity of the allegations and the counter allegations can be established only on the basis of the appreciation of the evidence produced before the trial Court by the respective parties. I am supported by the judgment of Hon'ble Apex Court in **State of Odisha vs Pratima Mohanty etc.** CrI.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** (1992 supp (1) SCC 335) 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.”

Weighing the facts and circumstances of the present case on the parameters laid down by the Hon'ble Apex Court in the above cited cases, this Court finds that the case in hand fails to qualify on the anvil of the law settled. Resultantly, this petition being devoid of any merit is hereby

dismissed.

However, the petitioners are at liberty to avail their alternative remedy as available to them under the law.

February 03, 2022
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(RAJESH BHARDWAJ)
JUDGE

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