

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

CRM-M-53624-2022
Date of decision: 21.11.2022

Satnam Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Bikramjit Singh Baath, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

The petitioner has approached this Court praying for quashing of the FIR No.02, dated 09.01.2021, registered under Sections 498-A and 406 IPC (added lateron), at Police Station Sadar Batala, Police District Batala and all the subsequent proceedings arising therefrom.

As per the facts of the case, the present FIR was lodged by the complainant, namely Gurbir Kaur. It was alleged that her marriage was solemnized with Lovepreet Singh i.e. the son of the petitioner on 25.10.2019. Her husband had been residing in Italy since long on permanent basis. Her marriage was solemnized on the condition that after marriage her husband would take her to Italy. In the marriage, dowry articles including gold were entrusted to the parents of Lovepreet Singh. However, after going to Italy, her husband Lovepreet Singh did not call her. Her parents-in-law started demanding car in dowry from her. The complainant was told by her husband Lovepreet Singh and his sisters that their mother Kuldeep Kaur remains ill and thus, a car is needed for her treatment and unless she brings a car from her parents, she would not be sent abroad. She used to be taunted for not bringing

sufficient dowry. She used to be threatened by her husband and father-in-law. Request was made to take legal action against the accused.

Learned counsel for the petitioner has vehemently submitted that the petitioner is an elderly person, who has been falsely implicated in this case. He has submitted that the petitioner has no role to play whatsoever in the matrimonial life of the complainant. He has submitted that son of the petitioner tried his level best to take the complainant to Italy, however, due to Covid-19, she could not be taken. He submits that on account of the same, the complainant has levelled false and frivolous allegations against the petitioner to implicate him in a false case to pressurize them to meet her demand. He submits that in fact there is a dispute between the husband and wife. He submits that the complainant is compelling her husband to take her to Italy. He submits that the husband of the complainant left for Italy on 3.12.2019 and 20 days thereafter, the complainant left the matrimonial home and started living with her parents. Thereafter, she started filing false complaints against the husband and his family members. He has submitted that the Police has not properly investigated the case and thus, filed the challan on the basis of tainted investigation. He has relied upon **State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335** and submits that prosecution of the petitioner is nothing but an abuse of the process of the Court.

Heard.

The relationship between the petitioner and the complainant is not in dispute. Admittedly, she was married to the son of petitioner on 25.10.2019. It was alleged by the complainant that her husband left for Italy on 03.12.2019 and thereafter, she was living with the petitioner and other members of her in-laws. There are specific allegations regarding harassment caused on account of

demand of dowry. She also alleged that her in-laws compelled her to bring a car from her parents. She was threatened to be killed by the petitioner. 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 in the category of heinous crimes. 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."

The Hon'ble Supreme Court in **Neeharika Infrastructure Pvt.Ltd. Vs State of Maharashtra, 2021 SCC Online SC 315** has observed as under:-

- “i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;
- ix) The functions of the judiciary and the police are complementary, not overlapping;
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power 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;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under [Section 482 Cr.P.C.](#), only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) to xviii) xxxxxxxxxxxxxxxx”

Weighing the facts and circumstances of this 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.

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

21.11.2021			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No