

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2023:PHHC:075888

Date of Decision: 24.05.2023

1. CRM-M-1311-2022

Sarita @ Binti & others

--Petitioners

Versus

State of Haryana & another

--Respondents

2. CRM-M-16232-2021

Saroj Nahar & others

--Petitioners

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Akshay Jindal, Advocate for the petitioners
in CRM-M-1311-2022 and for respondents no.2
to 4 in CRM-M-16232-2021.

Ms. Saroj Nahar, Advocate/respondent no.2
in person in CRM-M-1311-2022 and for petitioners
in CRM-M-16232-2021.

Mr. B.S. Virk, Sr. DAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

This common order will dispose of the aforementioned two
petitions filed under Section 482 Cr.P.C as both are connected petitions.

CRM-M-1311-2022

The present petition has been filed praying for quashing of FIR
No.213 dated 19.5.2020 under sections 323, 34 and Section 3 of Scheduled
Castes and Tribes (Prevention of Atrocities) Act, registered at Police
Station, Purani Sabji Mandi, Rohtak, District Rohtak.

Brief facts of the case are that both the parties in these petitions
are closely related to each other. Petitioner no.1 is the sister-in-law i.e.

Nanad of respondent no.2/complainant, petitioner no.2 is Chacha Sasur, whereas petitioner no.3 is Chachi Saas of respondent no.2.

As per factual matrix, the FIR in question was registered on the complaint made by respondent no.2, wherein it was alleged that complainant is an Advocate by profession and residing in Shalimar Bagh, Delhi. On 19.5.2020 she had come to Rohtak on Barsi of her mother-in-law Lali Devi. Her Chachi Saas Anguri and her husband Balwan and Nanad Sarita Saini (Binti) quarrelled with her and she was manhandled. They also uttered castist remarks and threatened her as well. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was registered.

Learned counsel for the petitioners has contended that petitioners and complainant being the family members are related to each other. It is submitted that complainant/respondent no.2 is the daughter-in-law of the family of petitioners. He submits that after the death of mother-in-law of respondent no.2 there arose a property dispute and on account of the same respondent no.2, who had performed love marriage with the brother of petitioner no.1 and was residing in Delhi, had planned to implicate the family of her in-laws in a false and frivolous case. He submits that mother-in-law of the complainant had died on 19.5.2019 and she was owner of land measuring 8 kanal 15 marlas by way of natural succession and mutation of the said property was sanctioned. The complainant and her husband were not happy with the mutation sanctioned and wanted to usurp the property in question and hence they filed a false and frivolous FIR against the petitioners. It is submitted that the complainant had been married with the brother of petitioner no.1 about 21 years ago and they were

residing in Delhi, whereas petitioner no.2 and 3 are residing in Rohtak. Though, the marriage was an inter caste marriage, however, petitioners had never raised any objection to the same. The property dispute had started after the death of mother-in-law of the complainant. Counsel submits that it was the complainant who came to the house of petitioners and in a premeditated manner gave beatings to the petitioners and hence FIR No.228 dated 30.5.2020 under sections 323, 34, 451, 506 IPC registered at Police Station, Purani Sabzi Mandi, Rohtak, District Rohtak was registered against them. It is submitted that petitioners themselves belong to the Saini caste which falls in B.C. Class-II category and there was no question of uttering any caste remarks against the complainant and that too after the marriage which took place about 21 years ago. He submits that neither any prima facie case is made out against the petitioners under the Atrocities Act nor under I.P.C. It is submitted that a property dispute has been given the colour of a criminal case only in order to settle the scores with the petitioners. Counsel submits that complainant is an Advocate by profession and she is a habitual litigant. It is submitted that she had lodged a false and frivolous case against the IO of this case by way of FIR No.294 dated 8.8.2020 registered under sections 195-A, 217, 120-B, 506 IPC and sections 3(1)(q), 3(1)(r), 3(1)(u), 3(1)(zc), 3(2)(va), 3(2)(vi), 3(2)(vii) of SC/ST Act. It is submitted that after investigation in FIR No.294 dated 8.8.2020 the allegations were found false and hence a cancellation report was submitted by the investigating agency before the learned Trial Court and the same was duly accepted by the Trial Court vide order dated 31.8.2020. Counsel has relied upon the judicial precedent in case of *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335* and submits that prosecution of the petitioners

in the present FIR is nothing but an abuse of the process of law.

Learned counsel/respondent no.2/complainant has vehemently argued that complainant belongs to S.C community and she had performed marriage with the brother of petitioner no.1 namely Pawan Kumar. She submits that as the marriage was against the wishes of family members, the same was not acceptable to them and on account of the same she was harassed and humiliated time and again by the petitioners. It is submitted that complainant is living with her family happily for the last about 21 years in Delhi. It is submitted that on the day of occurrence when she came to her matrimonial home she was humiliated by the petitioners by uttering castist remarks and hence the FIR was lodged against the petitioners. It is submitted that the contentions raised by learned counsel for the petitioners that on account of the property dispute false and frivolous FIR has been registered against the petitioners, are totally false. It is further submitted that complainant and her husband have already relinquished their rights over the property in question. It is submitted that investigation has been carried out thoroughly by the investigating agency and challan has already been presented. Counsel for the complainant has also relied upon the judicial precedent of *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335* and submits that the FIR in question can be quashed only if there is no prima facie case is made out, however, in the present case complicity of the petitioners is writ large. It is submitted that no case for quashing of present FIR is made out.

On the other hand, learned State counsel submits that allegations made in the FIR were duly inquired into and after investigation the same were substantiated and thus challan was presented in this case on

9.7.2021. He has relied upon the judicial precedent in case of *Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra, 2021 SCC Online SC 315* and submits that no case for quashing of FIR is made out in this case.

CRM-M-16232-2021

Prayer in this petition is for quashing of FIR No.228 dated 30.5.2020 under sections 323, 34, 451, 506 IPC registered at Police Station, Purani Sabzi Mandi, Rohtak, District Rohtak.

As per facts of the case, impugned FIR was registered on the statement of respondent no.2 Sarita Saini, wherein it was alleged that on 19.5.2020 it was the Barsi of her mother. Their ancestral house is in Saini Pura, Rohtak. Her brother Pawan Kumar had performed love marriage and he used to live in Delhi at Shalimar Bagh and he had severed all his relations with the family for the last so many years. After the death of her mother, her brother used to quarrel with their family every day. On 19.5.2020 they had performed Hawan in their ancestral home. Pawan along with his wife came to the house along with her uncle's sons Deepak and Manish. Thereafter, all in conspiracy with each other broken the lock of their house and called her on phone. She along with her uncle and aunt Angoori went to her ancestral home but all of them attacked her. Rakesh and Deepak's wives attacked her with Danda. Before they could understand anything Pawan and his wife started beating her uncle. Saroj while shouting abused them by calling a prostitute and they were threatened to be implicated in a false case under the Atrocities Act. A request was made to take legal action against the culprits.

Petitioner no.1 has appeared in person and argued for all. She has submitted that she belongs to S.C community and she was married to

Pawan for the last about 21 years. She further submits that the alleged occurrence took place on 19.5.2020, however, the FIR in question was lodged in a clandestine manner after about 11 days i.e. on 30.5.2020. It is submitted that petitioner no.1 has already lodged FIR against the respondents. She further submits that in order to pressurize her and to settle the dispute petitioners have got lodged a false and frivolous FIR against her. It is further submitted that the investigating agency has not been able to substantiate the allegations made by respondent-complainant. She also submitted that the injuries as alleged are also not medically corroborated. It is also submitted by petitioner no.1 that she along with her husband had already relinquished their rights in the property in dispute and thus the mutation as alleged by the petitioner side is false and frivolous. Petitioner no.1 further submits that she is living in Delhi along with her family and there was no occasion for her to commit the offence as alleged by the complainant in this case. She has also relied upon the judicial precedent in case of **State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335** to submit that no prima facie case is made against the petitioners and thus the impugned FIR deserves to be quashed.

Learned counsel for the complainant has submitted that the marriage of petitioner and brother of respondent no.2 was a love marriage and the petitioners never interfered in their family life, however, after the death of her mother there arose a family dispute and hence the petitioners gave beatings to the complainant side. It is submitted that version of petitioner no.1 was recorded by the police, whereas that of the complainant was not recorded and thus there occurred a delay of 11 days in lodging the present FIR.

Learned State counsel submits that allegations made in the FIR were duly investigated by the investigating agency and the same were found to have been substantiated and hence challan has been filed in this case and thus no case for quashing of FIR is made out.

I have heard both the sides at length and have gone through the records carefully.

It is evident from the reading of allegations made in the FIRs that both the sides are closely related to each other. Petitioner no.1 in CRM-M-16232-2021 is the daughter-in-law of the family. Her husband as argued before this court is the only brother of six sisters. His marriage had taken place with Saroj Nahar about 21 years ago and they have been blessed with two children. They are now living in Delhi, whereas the matrimonial home is at Rohtak. As per facts of the case, mother-in-law of Saroj died in the year 2019 and thereafter the impugned FIRs were lodged in the same year. Counsel for both the sides have vehemently admitted that after completion of investigation challans have been presented in both the FIRs.

As is evident from the contentions raised by counsel for the parties, there are disputed questions of facts involved in these petitions. As the investigation has already been completed and allegations made in the FIRs have been substantiated during investigation.

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.

Learned counsel for the petitioners in both the cases have been unable to satisfy this Court as to how the present cases are fit cases to invoke its inherent jurisdiction under Section 482 Cr.P.C by this court in the light of the law laid down by the Hon'ble Supreme Court in the above mentioned judicial precedent.

Taking into consideration the above facts and circumstances of the present case in the light of the law settled, the present petitions do not fall in the category of cases allowing invoking of the inherent powers under Section 482 Cr.P.C by this Court. The veracity of the allegations levelled by the complainant can be assessed only after a thorough investigation and thereafter by the Trial Court on the basis of the evidence to be led before it.

Thus, this Court is of the opinion that both the cases of the petitioners does not qualify the test for exercising its powers under Section 482 Cr.P.C by this court. Resultantly, the petitions being devoid of any merit are hereby dismissed. However, nothing stated herein shall be treated as an expression on the merits of the cases.

(RAJESH BHARDWAJ)
JUDGE

24.05.2023

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No