

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39993-2023 (O&M)
Reserved on : 03.11.2023
Pronounced on : 02.12.2023

Parveen Kumar and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vaibhav Narang, Advocate
for the petitioners.

Mr. Kunwarbir Singh, AAG, Punjab.

Mr. Solomon Partap Singh, Advocate
for respondent No.2.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioners under Section 482 of Code of Criminal Procedure seeking quashing of FIR No. 111 dated 09.05.2023, registered under Sections 406, 498-A of IPC, at Police Station City Kapurthala, District Kapurthala.

2. Brief facts of the case relevant for the disposal of the present petition are that the abovementioned FIR was registered on the basis of a complaint submitted by respondent No.2-Kirti Sood, who is daughter-in-law of the petitioners, alleging therein that she got married with Karan Sood, son of the present petitioners, on 30.11.2017 according to Hindu rites and ceremonies. On the demand of her in-laws family, the function of ring

ceremony was performed at Chandigarh. At the time of marriage, several

gold ornaments were given to members of her in-laws' family. Huge amount of money was spent on the marriage. She alleged that four months after their marriage, her husband had gone to Switzerland and thereafter, the other members of his family had started maltreating and harassing her. She was sent to her parental house to do IELTS course on the pretext that she would be taken to Switzerland thereafter. She was pregnant at that time and had given birth to a girl child. The expenses of her IELTS course and delivery were borne by her parents. Her husband had come to India after birth of her child and had taken her to her nuptial home but thereafter all of them had started harassing her and extending threats to her. Even her parents, who visited to meet her, were mistreated. She was thrown out of her house and even police was called by her father-in-law, who disclosed that he had disowned his son as well as the complainant. She further alleged that her husband along with her father-in-law had extended threats to kill her family members as well as herself and while raising demand of a sum of Rs. 10 lacs, had told her that she would be settled in her matrimonial house only when she would bring this much amount. She prayed for taking penal action against the culprits. After registration of the FIR, investigation proceedings were initiated. During investigation, the present petitioners joined investigation and were extended benefit of bail. After completion of investigation, *challan* under Section 173 Cr.P.C. was presented in the Court for trial of the present petitioners. Their son Karan Sood, who is working abroad, has not been arrested.

3. The petitioners have filed this petition for quashing the aforementioned FIR and the proceedings emanating therefrom on the grounds and learned counsel for the petitioners argued that the FIR in this

same is counter-blast to the disinheritance of the complainant and her husband by the petitioners. It is in fact the complainant-respondent No.2, who is harassing and extending threats to the petitioner. She has been sending emails and whatsapp messages to her husband threatening that she would kill their daughter. She uses filthy language and has levelled false allegations. On 16.06.2022, she had come to the house of the petitioners and after hurling abuses to them, had got a false case bearing FIR No. 53 registered against them and thereafter FIR of this case was registered. There are no specific allegations of cruelty or demand of dowry by the petitioners. The petitioner No.1 is suffering from several chronic ailments and he is even unable to stand. His condition has further deteriorated due to harassment meted out at the hands of respondent No.2. The allegations in the FIR, even if taken on face value, do not constitute any case as against the petitioners. Therefore, it was argued that the FIR No.111 and the subsequent proceedings arising therefrom are liable to be quashed.

4. Learned State counsel has argued that the Investigating Agency, after conducting thorough investigation in the case, had filed *challan* for commission of offences punishable under Sections 406 and 498-A of the IPC as against the petitioners. There are specific allegations against them, which do not make out any case for quashing of FIR in question. Hence, he argued that the petition merited outright dismissal.

5. Learned counsel for respondent No.2 argued that the involvement of the petitioners in the act of subjecting respondent No.2 to cruelty on account of unlawful demands of dowry had not only been reflected from the allegations levelled in the FIR but also stands corroborated from the evidence collected by the Investigating Officer during investigation, culminating into filing of chargesheet against the petitioners.

He argued that the allegations levelled in the FIR were sufficient to make out a *prima facie* case as against the petitioners. The same were serious in nature. Respondent No.2 had been thrown out of her matrimonial house by the petitioners in connivance with her husband, who is working abroad and she had been physically and mentally tortured in order to fulfill their demands. He further argued that the veracity of the allegations as levelled by the petitioner can be tested in the trial which has to take place before learned trial Court and no ground for quashing the FIR has been made out.

6. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana Vs Bhajan Lal (1992) SUPP 1 SCC 335***, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

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;

xxx xxx xxx xxx

(c) 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;

xxx xxx xxx xxx

(e) 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;

xxx xxx xxx xxx

(g) 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.

7. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section

limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can also be made to ***Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy & Ors., (2011) 12 SCC 437***, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. Reliance can further be placed upon ***State of Andhra Pradesh vs. Gourishetty Mahesh and others, 2010 Criminal Law Journal 3844***, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

8. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In ***Monika Kumar vs. State of U.P., (2006) 8 SCC 781***, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice.

9. This Court has considered that contentions raised by learned counsel for the parties in the wake of above discussed position of law. Now

on the complaint filed by respondent No. 2, who is daughter-in-law of the present petitioners, making allegations of commission of offences punishable under Sections 406, 498-A of the IPC by them as well as by their son, who is the husband of the complainant. The investigation in this case has been completed and charges have to be framed. On going through the contents of the FIR, it is revealed that the allegations clearly disclose a *prima facie* case against the petitioners, which justify the registration of criminal proceedings against them. It cannot be said that these allegations are bereft of even the basic facts, which are absolutely necessary for constituting a *prima facie* case for the offences alleged nor can it be said that the allegations made in the complaint, even if given face value and taken to be true in entirety, do not disclose any offence. Rather, on appreciation of material on record on the touchstone of above said legal position, this Court finds that there are specific allegations in the FIR as against the present petitioners. In such circumstances, the instant case certainly does not fall within any of the categories of the cases calling for the exercise of power by this Court under Section 482 Cr.P.C. It appears that by seeking to quash the FIR and the criminal proceedings, the petitioners intend to stifle a legitimate prosecution. Specific allegations have been raised in the FIR regarding demand of dowry and physical abuse by the petitioners and the husband of the complainant. The allegations levelled in the FIR do not advance the case of the petitioners at this stage to seek quashing of the FIR. Disputed question of facts cannot be delved into by this Court at this stage to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR in question.

10. Keeping in view the facts and circumstances of the case, this Court finds no ground whatsoever to interfere at this stage for quashing of the FIR in question as well as the chargesheet filed in the same. The petition

is accordingly dismissed.

11. It is, however, clarified that no observations made herein above are the reflection on the merits of the case and shall have no bearing on trial. The same are confined for the decision of the present petition only.

02.12.2023
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>