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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 11.04.2023
Pronounced on: 18.04.2023

+ **CRL.M.C. 1986/2020**

RAZIA BEGUM

..... Petitioner

Through: Mr. R.K. Ojha and Mr.
Premchand Kumar,
Advocates.

versus

STATE OF NCT DELHI

..... Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with SI
Sohan Lal, P.S. Fatehpur Beri.
Ms. Kritika, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') seeking quashing of FIR bearing no. 437/2019, registered at Police Station Fatehpur Beri, South District, Delhi, for the offences punishable under Sections 498A/406 of the Indian Penal Code, 1860 ('IPC')
2. Briefly stated, the present FIR was registered on the complaint

dated 06.12.2019 lodged by respondent no. 2 who had stated that marriage between her and petitioner's son Ashad was solemnized on 21.09.2017, on which her father had spent around Rs. 7 lacs. It was alleged that next day onwards, the petitioner had started harassing her for bringing less dowry and articles of low quality and had also snatched away all her jewellery items. It was stated that a girl child was born out of the wedlock on 02.08.2018 and the entire expenses of the operation were borne by her parents. On the basis of the allegations levelled by respondent no. 2 in her complaint, the present FIR was registered under Sections 498A/406 of IPC against the petitioner and her son.

3. Learned counsel for the petitioner states that the present FIR has been lodged on false and frivolous grounds and deserves to be quashed. It is also stated that there is no evidence on record against the present petitioner that she had ever ill-treated respondent no. 2 by demanding any dowry or economic help from her family. It is stated that the petitioner is about 60 years of age and she had always maintained cordial relations with the complainant. It is also stated that the FIR was lodged at the instigation of father, brother, mother and sister of the complainant since she herself, on 21.08.2012, had stated before SHO P.S. Govindpuri that she had no problem with her mother-in-law i.e. petitioner.

4. *Per contra*, learned APP for the State as well as learned counsel for complainant state that there are specific allegations against the petitioner and it is not a fit case for quashing of FIR. It is stated that charge-sheet also stands filed against the petitioner before the

concerned Magistrate and the contentions raised before this Court can be raised during trial.

5. This Court has heard the rival submissions on behalf of both the parties and perused the material on record.

6. After hearing arguments and going through the case file, this Court is of the opinion that a perusal of the charge-sheet, FIR and the statements filed along with the same discloses that the complainant has levelled specific allegations against the petitioner that she had taken all the gold ornaments of the complainant on the next day of marriage and had harassed her about the quality of articles given as dowry. She had also allegedly demanded cash amount from complainant's father. There are also allegations of complainant being beaten up and not being given food due to which she had fallen seriously ill and was taken back by her brother to her parental home. The complainant had delivered a female child on 02.08.2018 and thereafter, co-accused had also refused to bring her back to the matrimonial home as she had given birth to a female child.

7. As far as exercise of inherent powers under Section 482 Cr.P.C. is concerned, the Hon'ble Apex Court has laid down the guidelines for quashing of FIR in case of *State of Haryana v. Bhajan Lal* 1992 SCC (Cri) 426, which are extracted herein-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 extra-ordinary 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 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 F.I.R. 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

8. Recently, the Hon’ble Apex Court in ***CBI v. Aryan Singh*** 2023 SCC OnLine SC 379 has expressed that the Courts while exercising the powers under Section 482 Cr.P.C., have a very limited jurisdiction and are only required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”.

9. When the facts of the present case are tested on the touch stone of the guidelines laid down by the Hon’ble Apex Court for quashing of FIR, it is apparent as discussed above, that there are specific allegations of demand of dowry, harassment and torture as well as taking away of the gold ornaments of the complainant by the present petitioner and the case in hand does not fall or is not covered in the guidelines laid down by Hon’ble Supreme Court for quashing of FIR.

On the basis of material on record, it cannot be said at this stage that no offence was committed by the petitioner or there was no likelihood that the offence could have been committed by her. The letter which has been placed on record, to contend that complainant had stated on an earlier occasion before the police that she had no problem with the petitioner, is of the year 2018, whereas the present FIR was registered in the year 2019 and there is allegation in the FIR that in the year 2018, due to ill-treatment, she had been taken to her parental home by her brother. Further, the husband of complainant had not spent any money on delivery of the child and had refused to bring her back since she had delivered a female child.

10. Having given thoughtful consideration to the material on record, and considering the relevant principles governing quashing of FIR laid down by the Hon'ble Apex Court in *Bhajan Lal (supra)*, which is to be applied in the rarest of the rare cases, the instant case cannot be held to fall within its ambit. This Court is not persuaded to reach a conclusion that the allegations leveled are absurd, highly improbable and that such incident could not have happened so as to direct quashing of the FIR.

11. Charge-sheet in the instant case already stands filed and charges are yet to be framed. Considering the same, this Court is of the opinion that the grounds raised before this Court for quashing of FIR are bereft of any merit in view of settled law regarding quashing of FIR. Needless to say, these contentions can be raised before the learned Trial Court at the time of framing of charge.

12. In view thereof, this Court does not deem it fit to exercise the

discretion of quashing the present FIR.

13. Accordingly, the present petition stands dismissed.

14. It is, however, clarified that nothing expressed herein-above shall tantamount to be an expression on the merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 18, 2023/kss

