

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-922-2023 (O&M)
Date of decision: 21.03.2024

Ganga Ram and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. K. Ganga, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners under Section 482 of Cr.P.C. seeking quashing of FIR No. 127 dated 17.03.2022, registered under Sections 323, 406, 498-A and 506 of the IPC at Police Station Rania, District Sirsa and the proceedings having emanated subsequently therefrom.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of a written complaint filed by the complainant-respondent No.2 Manju Bala alleging therein that her marriage was performed with Raj Kumar, who is the son of petitioner Nos. 1 and 2 and brother of petitioner No.3, on 02.05.2021. It was her second marriage as she was earlier married to one Pradeep Kumar, from whom, she had taken divorce in Court and the present petitioners as well as his second husband i.e. Raj Kumar were well aware of

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this fact. In her marriage with Raj Kumar, her parents had given dowry articles beyond their capacity. Several gold and silver articles were also given. However, her in-laws and her husband started taunting for bringing insufficient dowry and humiliated her for not bringing an Alto car in dowry and also due to the fact that her parents had given only an amount of Rs.31,000/-, though her husband was getting marriage proposals from reputed families. The complainant was physically as well as mentally harassed by them. She was not treated well by them. She also alleged that she was extended beatings by the accused persons two days before the festival of Raksha Bandhan and was threatened that if she did not bring an Alto car along with an amount of Rs. 2 Lakhs from her parents, she will continue to be harassed by them. Consequently, her parents handed over them an amount of Rs. 40,000/-. However, soon after, they again started taunting her and extending beatings. She was even given intoxicating tablets to make her mentally ill. On 19.10.2021 at about 07:00 PM, when she was preparing food in the kitchen, on the instigation of petitioner No. 2 Saraswati Devi, who is her mother-in-law, complainant's husband Raj Kumar pulled her out of the kitchen by pulling her hair and all the accused persons pushed her into the water tank of the house with an intention to kill her. Even on 25.10.2021, her husband and petitioner No. 2 tried to kill her when she was cutting the fodder at the machine. Threats were also extended to her that her husband would give her divorce. She also alleged that her dowry articles/*Istridhan* were criminally misappropriate by the accused persons. She had prayed for taking action against the culprits. After registration of FIR, investigation proceedings were

initiated. During investigation, the allegations against accused Raj Kumar, Ganga Ram, Saraswati Devi and Ram Kumar were found to be correct, whereas it was found false qua accused Kiran. The accused persons were joined into the investigation and the recovery of *istridhan* was effected, which was identified by the complainant. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioners along with co-accused are facing trial for commission of aforementioned offences.

3. The petitioners have sought quashing of FIR on the grounds and it has been argued by their counsel that they have been falsely implicated in this case. Before her marriage with Raj Kumar, she was married with one Pradeep Kumar but the said marriage was dissolved by way of a decree of divorce dated 11.09.2020 obtained by them under Section 13-B of the Hindu Marriage Act. However, this fact was not disclosed by her before performing marriage with Raj Kumar that it would be her second marriage. In fact, the complainant was a very quarrelsome and arrogant lady. The petitioner Nos. 1 and 2 had started residing separately from their son Raj Kumar and the complainant so that good sense may prevail between them but the complainant did not change her behavior and ultimately, she roped in all the members of her in-laws family in this false case. Petitioner Nos. 1 and 2 are the senior citizens and petitioner No. 3 is a student and the allegations as levelled against them by the complainant are false and baseless. The allegations as levelled by the complainant are general in nature as she had nowhere stated that as to when she was extended beatings by the petitioners.

She had even not specified as to when the demand of dowry was made by the petitioners. Even if all the allegations in the FIR are taken to be true, there would be no chances of the petitioners being convicted. Therefore, it was argued that the petition deserved to be allowed.

4. Learned State counsel, on the other hand, had argued that the investigating agency had conducted thorough investigation in the matter and had thereafter presented the challan qua commission of offences punishable under Sections 323, 406, 498-A and 506 of IPC as against the present petitioners. There were specific allegations against them. Therefore, he has argued that no case for quashing of the FIR and other consequential proceedings arising therefrom has been made out.

5. I have heard learned counsel for the petitioners as well as learned State counsel at considerable length and have also perused the material placed on record.

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. The 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:

“(a) 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;

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 320 of the Code. Inherent power is of wide plenitude with no statutory 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 and others : (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 ***Dr. Monica Kumar and another vs. State of U.P. and others : (2008) 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. In ***Taramani Parakh vs. State of M.P. and others : 2015 (2) RCR (Criminal) 445***, Hon'ble Supreme Court has held that Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but on an opinion formed prima facie. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied, if there is substantial compliance with the requirements of the offence.

9. It is also well settled that if a petition under Section 482 Cr.P.C. has been filed at the stage of investigation, then it is only required to be considered whether a cognizable offence is disclosed or not. However, when the statements of the witnesses are recorded, evidence is collected and the chargesheet is filed after conclusion of investigation/enquiry, the matter stands on a different footing and the Court is required to consider the material/evidence collected through investigation. Even at that stage, the High Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting trial. If in order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof. At this stage, the High Court cannot appreciate the evidence as to whether it can draw its own inference from the contents of the FIR and the material relied on it. The appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Reference in this regard can also be made to the observations made by Hon'ble Supreme Court in *Kaptan Singh vs. State of U.P. and others*, 2021 SCC Online SC 580 and *Dhruvaram Murlidhar Sonar vs. State of Maharashtra* :, (2020) 3 SCC (Criminal) 672, wherein Hon'ble Supreme Court has observed that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. Inherent jurisdiction under Section 482 Cr.P.C. though wide is

to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

10. I have considered the contentions raised by learned counsel for the parties in the wake of above discussed position of law. In view of the arguments raised by the parties, the foremost issue, which in the opinion of this Court requires determination, is whether the allegations made against the petitioners are general/omnibus and are liable to be quashed. On applying the ratio of law as laid down in the above cited cases to the facts and circumstances of the present case, I am of the considered opinion that no case for quashing the FIR or the consequential proceedings arising therefrom has been made out. Respondent No. 2/complainant, in her complaint filed before the police, had levelled specific allegations against the petitioners qua her being harassed by them on account of bringing insufficient dowry, qua demand of dowry and also to the effect that her *istridhan* in the form of ornaments etc., which was in the custody of the petitioners, has not been given to her. The allegations of her being assaulted at the hands of the petitioners and his other family members had also been levelled. On the basis of these allegations, it cannot be stated that no case for commission of offences punishable under Section 323, 406, 498-A and 506 of the IPC has been made out against the petitioners. It would be pre-mature to say so and the aforesaid aspect is to be considered during trial. As per status report dated 24.01.2023, after presentation of challan, charges had been framed by the trial Court on 27.04.2022 and the trial is going on.

11. 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 as well as consequent proceedings emanating therefrom. The petition is accordingly dismissed. The trial is directed to be conducted further in accordance with law and on its own merits.
12. 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.

21.03.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No