

CRM-M-10737-2022

1

251

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10737-2022
Date of decision: 24.07.2024

DILBAGH SINGH AND ANOTHER

...PETITIONERS

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.S. Rakhra, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

Ms. Gaganpreet Kaur, Advocate with
Mr. Pawan Attri, Advocate
for respondent No. 2.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR No. 294 dated 20.11.2021 registered under Sections 323, 354A, 377, 406, 498-A, 506 of the Indian Penal Code 1860 at Police Station Pehowa, Kurukshetra and all subsequent proceedings arising therefrom.
2. Briefly, the facts are that respondent no.2-complainant moved a complaint before the concerned police State City Pehowa District Kurukshetra on 28.09.2021 which formed the basis of the FIR (supra). It was alleged in the aforesaid complaint by respondent no.2 that she was married to the brother, namely Gurbaj Singh, of petitioner no.1 on 01.02.2016 and went to her matrimonial home on 02.12.2016. Petitioner no.2 is the wife of petitioner no.1.
- The husband of respondent no.2 stayed with her in the matrimonial home for

**CRM-M-10737-2022****2**

20-25 days after marriage and then went back to Italy. Thereafter, on 28.11.2017, her husband came to India for a month and during that period, the accused again started demanding more dowry. Even after the birth of their daughter, born from the said wedlock, the husband of respondent no.2 did not come to see her and when he returned in December 2018 for a month to attend the marriage of his brother-in-law, he forced respondent no.2 to make unnatural relations with her and also beat her. Respondent no.2 was also harassed by the accused persons, including the petitioners, for not giving birth to a male child and was also given beatings by her husband. When the husband of respondent no.2 returned to Italy in January 2019, she was promised that she would be called to Italy but it turned out to be a false promise. Meanwhile, petitioner no.1 started seeing and touching respondent no.2 with malice intention. Thereafter, respondent no.2, being aggrieved by the behaviour of her in-laws, returned to her parental home in May 2019. The accused also misappropriated her *Istridhan*. When respondent no.2 went back to her matrimonial home to collect personal documents, the accused abused her. Despite Panchayat being convened multiple times, the accused refused to mend their ways and resettle respondent no.2. Her husband refused to call her to Italy and threatened to kill her in case she tried to go back to her matrimonial home. Aggrieved by the registration of FIR (supra), the petitioners have approached this Court by way of the present petition.

3. Learned counsel for the petitioner *inter alia* contends that the allegations levelled against the petitioners, who are brother-in-law and sister-in-law of respondent no.2-complainant, are omnibus and vague. No specific role has been attributed to the petitioners. He further submits that the

**CRM-M-10737-2022****3**

petitioners never interfered in matrimonial life of respondent no.2 as they were separate in mess from her. To establish the same, he points towards the Family Identification Card and Ration Card of the petitioners which have been appended as Annexure P-2 and Annexure P-3 respectively.

4. Learned counsel for respondent no.2-complainant contends at the outset that there are specific allegations qua the present petitioners in the FIR (supra) and given the serious nature of the allegations, any interference by this Court is not warranted in the case at hand.

5. Learned State counsel submits that final report dated 27.01.2022 has been presented against the petitioners in the present FIR and the averments made by the learned counsel for the petitioners are matter of trial. He submits that this Court should not adjudicate upon the disputed questions of fact at this stage.

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioners have been living separately from respondent no.2 and had no role in her matrimonial life. The allegations levelled by respondent no.2 against the petitioners, although serious in nature, are far-fetched and their involvement has been limited to merely bald allegations. No specific date, time or manner find mention in the allegations made by the complainant qua the petitioners and it appears that major grudge of the complainant is the refusal by her husband to take her to Italy. It is trite law that High Court should not go into disputed questions of fact while exercising its inherent power under the Code of Criminal Procedure as the same should be used with parsimony. However, when it so needed to secure the ends of justice, the High Court must not be circumspect to look into circumstances



CRM-M-10737-2022

4

of the case in its entirety where the allegations levelled in FIR/Complaint are frivolous and emerge from an unscrupulous intent. Quite recently, a two-judge Bench of the Hon'ble Supreme Court in the case of ***Achin Gupta vs State of Haryana and Anr., 2024(2) R.C.R(Crl.) 880***, proceeded to quash the proceedings against the accused-husband arising out of an FIR under Section 323, 406, 498A, 506 of IPC on the grounds that allegations lacked specificity and the FIR was vexatiously registered 2 years after the divorce proceedings. Speaking through Justice J.B. Pardiwala, following observations were made which are pertinent to the case at hand :-

“19. It is also pertinent to note that the Respondent No. 2 lodged the FIR on 09.04.2021, i.e., nearly 2 years after the filing of the divorce petition by the Appellant and 6 months after the filing of the domestic violence case by her mother-in-law. Thus, the First Informant remained silent for nearly 2 years after the divorce petition was filed. With such an unexplained delay in filing the FIR, we find that the same was filed only to harass the Appellant and his family members.

20. It is now well settled that the power under Section 482 of the Cr.P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr.P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice.

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*24. This Court, in the case of ***State of A.P. v. Vangaveeti Nagaiah, reported in (2009) 12 SCC 466 : AIR 2009 SC 2646***, interpreted clause (iii) referred to above, observing thus: -*



*“6. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, 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. That is the function of the trial Judge. Judicial process no doubt should not be an instrument of oppression, or, needless harassment Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the Section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in **State of Haryana v . Bhajan Lal [1992 Supp (1) SCC 335]**. A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows:*

“(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 F.I.R. 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.”

25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the

sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

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29. The learned counsel appearing for the Respondent No. 2 as well as the learned counsel appearing for the State submitted that the High Court was justified in not embarking upon an enquiry as regards the truthfulness or reliability of the allegations in exercise of its inherent power under Section 482 of the Cr.P.C. as once there are allegations disclosing the commission of a cognizable offence then whether they are true or false should be left to the trial court to decide.

30. In the aforesaid context, we should look into the category 7 as indicated by this Court in the case of Bhajan Lal (supra). The category 7 as laid reads thus: -

“(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.”

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*35. In one of the recent pronouncements of this Court in **Mahmood Ali & Ors. v. State of U.P & Ors., 2023 SCC OnLine SC 950**, authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482 of the CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute*



the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”

7. Similarly, a three Judge bench of the Hon’ble Supreme Court in ***Abhishek v. State of Madhya Pradesh 2023(4) R.C.R.(Criminal) 239*** quashed the FIR under Section 498-A of the IPC against the mother-in-law and brother-in-law of the complainant and observed that the allegations were mostly general and omnibus in nature making them incongruous and difficult to comprehend. Speaking through Justice Sanjay Kumar, the scope of Section 482 Cr.P.C. qua quashing of FIR stemming from offence under Section 498-A was also deliberated upon and the following observations were made:

*“12. The contours of the power to quash criminal proceedings under Section 482 Cr.P.C., 1973 are well defined. In **V. Ravi Kumar vs. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu and others [(2019) 14 SCC 568]**, this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In **M/s. Neeharika Infrastructure (P). Ltd. v. State of Maharashtra and others [Criminal Appeal No.330 of 2021, decided on 13.04.2021]**, a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr.P.C., 1973 It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the 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 therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in **R.P. Kapur v. State of Punjab (AIR 1960 SC 866)** and **State of Haryana and others v. Bhajan Lal and others***



[(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

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15. Earlier, in Neelu Chopra and another v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

8. Pertinently, a two Judge bench of the Hon'ble Supreme Court in ***Preeti Gupta v. State of Jharkhand (2010) 7 SCC 667*** quashed the complainant against the sister-in-law of the complainant noting that the sole purpose of filing the complaint was to humiliate her and allowing criminal prosecution to continue would amount to an abuse of process of law. Speaking through Justice Dalveer Bhandari, the following was observed:

“34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”

9. Time and again, the Courts have highlighted the tendency of roping in all and sundry members of the husband’s family in cases filed under Section 498-A of the IPC. Recently, a two Judge bench the Hon’ble Supreme Court in *Mahalakshmi and others v. State of Karnataka Criminal Appeal No. 494/2023* decided on 30.11.2023 quashed the criminal proceedings under Section 498-A of the IPC against the husband’s sisters and cousins and observed that if the allegations are not serious and substantiated, and there is no clear evidence of accused’s involvement in the complainant’s marital life, they cannot be implicated under Section 498-A of the IPC.

10. Accordingly, this petition is allowed and consequently, FIR No. 294 dated 20.11.2021 registered under Sections 323, 354A, 377, 406, 498-A, 506 of the Indian Penal Code 1860 at Police Station Pehowa, Kurukshetra and all subsequent proceedings arising therefrom are hereby quashed qua the petitioners.

24.07.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No