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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7703-2024 (O&M)

Date of Decision: 05.03.2024

RACHANA AND ANOTHER

.....PETITIONERS

Vs.

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Vivek Sharma, Advocate,
for the petitioners.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present petition has been filed under Section 482 Code of the Criminal Procedure, 1973 (for short '*the Code*') for quashing of FIR No. 654, dated 25.12.2021, registered at Police Station Sadar, District Yamuna Nagar, under Sections 323, 406, 498-A and 506 of the Indian Penal Code, 1860 (for short '*the IPC*'), including the order dated 14.09.2023 (Annexure P-3) for framing of the charges against the petitioners.
2. Learned counsel for the petitioners *inter alia* contends that the marriage of the complainant (respondent No. 2) was solemnized with Avinash, son of the petitioners on 06.12.2020. There was a matrimonial dispute between the husband and the wife and the present FIR has been registered which is misuse of process of law. Petitioner No. 1 is the mother-in-law and petitioner No. 2 is the father-in-law of respondent No. 2-complainant. There are no specific allegations against the petitioners in the FIR despite that final report under Section 173 of the Code has been filed and

the trial Court has even framed the charges under Sections 498-A, 406, 323 and 506 of IPC by passing the impugned order dated 14.09.2023 (Annexure P-3). On the basis of general and vague allegations, the trial is not going to succeed. As such, the criminal proceedings arising out of the present FIR are misuse of process of law and liable to be quashed.

3. Learned State counsel opposed the aforesaid contentions by referring to the copy of the FIR and the final report presented under Section 173 of the Code (Annexure P-2). It is contended that there are specific allegations against the petitioners regarding demand of ₹7,00,000/- from the complainant. There are also specific allegations of harassment to the complainant, as such, the final report was presented after thorough investigation.

4. I have considered the aforesaid submissions.

5. The FIR was registered at the instance of respondent No. 2. The solemnization of the marriage of respondent No. 2 with the son of the petitioners on 06.12.2020 is not disputed. It is contended in the FIR that the father of the complainant had spent a sum of ₹12,00,000/- on the 'Sagai' ceremony which took place on 02.11.2020 at R Plaza Saharanpur. The parents of respondent No. 2 had given dowry articles to the accused persons, as such, spent a sum of ₹25,00,000/- in the marriage and in the 'Sagai' ceremony. It is further in allegations that the accused were not happy with the dowry articles brought by respondent No. 2, as such, 2-3 days of the marriage, the mother-in-law, father-in-law, husband and other accused made a demand of ₹7,00,000/- and asked respondent No. 2 to bring the said amount. It is also specifically alleged by respondent No. 2 that her mother-in-

law (petitioner No. 1) used to administer some medicines to the complainant in her food and tea due to which she used to lie depressed in her room. It is further alleged by respondent No. 2 that she remained mum for a long time due to the fear that she would be turned out of her matrimonial house.

6. As per the final report presented under Section 173 of the Code, a detailed investigation has been conducted and the allegations constitute an offence under Section 376 of IPC against the relatives of the husband of respondent No. 2 were not found correct. However, the allegations regarding demand of dowry and harassment to respondent No. 2 were *prima facie* found against the petitioners.

7. On the basis of the material collected during the investigation, the trial Court has found that a *prima facie* case under Sections 498-A, 406, 323 and 506 of IPC is made out against the petitioners and charge-sheet has also been issued to them.

8. Hon'ble the Apex Court in State of Haryana and others vs. Ch. Bhajan Lal and Others 1992 AIR SC 604, laid down the broader guidelines and principles to exercise the extraordinary powers under Article 226 of the Constitution of India or inherent powers under Section 482 of the Code for quashing of the proceedings in criminal cases. The said principles read as under:-

“(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 FIR 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.”

9. Hon’ble the Apex Court in Amit Kapoor vs. Ramesh Chander and Another 2012 (9) SCC 460, laid down principles for quashing of FIR on merits where charges have been framed. It was held as under:-

19. “Having discussed the scope of jurisdiction under these two provisions i.e. Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be

appropriate for us to enlist the principles with reference to which the Courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:-

- 1. "Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.*
- 2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.*
- 3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.*
- 4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should*

be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

7. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

8. Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a 'civil wrong' with no 'element of criminality' and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.

9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

10. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

11. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is

maintainable, does not mean that a criminal complaint cannot be maintained.

12. In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.

13. 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 is an opinion formed prima facie.

14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae i.e. to do real and substantial justice for administration of which alone, the courts exist.”

20. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. 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.”

10. The said principles were also reiterated by Hon’ble the Apex Court in Supriya Jain vs. State of Haryana, 2023 (7) SCC 711.

11. Keeping in view the facts of the present case, there are specific allegations against the petitioners who are the mother-in-law and the father-in-law of the complainant regarding demand of dowry immediately after the marriage. There are specific allegations about cruelty on account of demand of dowry and there are also specific allegations against the mother-in-law that she had been mixing some medicines in the food and beverages of the complainant. All these allegations are matter of trial. The facts of the present case does not fall in any of the category whereby allegations against the petitioners can be falsified on the face of it and proceedings can be quashed in view of the ratio of the decision of Hon’ble the Apex Court in Ch. Bhajan Lal’s (*supra*) case.

12. In view of the facts and circumstances of the present case, there is nothing on record to suggest that a *prima facie* case is not made out on the allegations made in the First Information Report. The case does not fall within the parameters of the decision of Hon’ble the Apex Court in Ch. Bhajan Lal’s (*supra*) case. Considering the totality of these circumstances and in view of the ratio of the aforesaid decisions, no case is made out for quashing of the FIR exercising the jurisdiction under Section 482 of the Code.

13. Consequently, the petition stands dismissed.

14. Pending miscellaneous application (s), if any, shall also stand disposed of.

March 05, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No