



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-8915-2024
Reserved on: 22.07.2024
Pronounced on: 23.07.2024

Narottam Kumar @ Narottam ...Petitioner
Versus
State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: - Ms. Srishti S. Sharma, Advocate for the petitioner.
Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR, bearing No. 89 dated 05.07.2023 (Annexure P-3) registered under Sections 406, 498-A, 323, 509, 506 and 34 of the Indian Penal Code, at Police Station Women, West Gurugram, Gurugram and all the consequential proceedings arising therefrom qua the petitioner.
2. The facts, in brief, are that the FIR (supra) was registered on the basis of a complaint filed by respondent no.2-wife, wherein, it was alleged that the marriage of respondent no.2 was solemnized with the petitioner on 06.04.2006 as per Hindu rites and rituals. Two sons were born out of the wedlock. As per the allegations contained in the FIR, the petitioner physically assaulted respondent No.2-wife. Further, the petitioner demanded money from the complainant and her parents in order to fund his studies as well as to pay off his medical bills. The petitioner often misbehaved with the complainant and also extended threats of divorce. Later, the complainant learnt that the petitioner was residing with another woman and had in fact

**CRM-M-8915-2024****2**

solemnised a second marriage. When the complainant confronted the petitioner and caught him co-habiting with another woman, the petitioner gave her severe beatings and threatened to kill her and her parents.

3. Learned counsel for the petitioner, inter alia, contended that the instant FIR has been lodged with *mala fide* intentions as the father of the complainant works in the police department. It is in fact due the quarrelsome nature of the complainant that the parents of the petitioner were forced to live in a separate house even when they were not keeping well. In the year 2022, the petitioner finally decided to file a divorce petition against the complainant on the grounds of cruelty and desertion (Annexure P-2). The present FIR is a counter blast to the said divorce petition. All the allegations in the FIR are false and concocted in order to harass the petitioner and his family members. With regard to other incidents of cruelty mentioned in the impugned FIR, no specific dates have been given. Furthermore, these incidents were neither reported to the police nor to respectable persons of the society. A perusal of the FIR shows that allegations are vague and general in nature and the allegations of demand of dowry have been found to be false by the investigating agency. Lastly, it was argued that in the Final Report presented before the trial Court, the parents of the petitioner have been kept in Column 2 (Annexure P-5).

4. I have heard the learned counsel for the parties and perused the record of the case. This Court is of the opinion that whether or not the incidents of cruelty as mentioned in the FIR (supra) are substantiated would be a moot question to be determined by the learned trial Court on the basis of the evidence adduced by the respective parties. As such, any interference



CRM-M-8915-2024

3

by this Court with regard to factual questions is impermissible in law as it is the sole prerogative of the trial Court to determine the disputed questions of fact after examining the evidence on record. Thus, disputed questions of facts cannot be delved into by this Court at this stage while dealing with a case of quashing of FIR (supra) under Section 482 of the Cr.P.C.

5. Pertinently, a two Judge Bench of the Hon'ble Supreme Court in ***HMT Watches Ltd Vs. M.A. Abida (2015) 11 SCC 776*** has held as under:-

“10..... Whether the cheques were given as security or not, or whether there was outstanding liability or not is a question of fact which could have been determined only by the trial court after recording evidence of the parties. In our opinion, the High Court should not have expressed its view on the disputed questions of fact in a petition under section 482 of the Code of Criminal Procedure, to come to a conclusion that the offence is not made out. The High Court has erred in law in going into the factual aspects of the matter which were not admitted between the parties.”

6. A two Judge Bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:

“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in

the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”

7. In ***Sampelly Satyanarayana Rao Vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458***, a two Judge bench of the Hon’ble Supreme Court, speaking through Justice Adarsh Kumar Goel, made the following observations:

“17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint. The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact.”

8. In view of the discussion above, this Court cannot appreciate the probable defence set up by the petitioner at this stage. Accordingly, the present petition is dismissed. However, the petitioner is at liberty to raise all the pleas before the learned trial Court

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

Reserved on : 22.07.2024

Pronounced on :23.07.2024

manisha

(HARPREET SINGH BRAR)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>