

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-16236-2024(O&M)

Date of order: 04.04.2024

Surjit Lal & Others

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Piyush Khanna, Advocate
for the petitioners.

Mr. Kunwarbir Singh, AAG Punjab.

Nidhi Gupta, J.

Present petition under Section 482 Cr.P.C. is filed seeking quashing on merits of FIR No.96 dated 30.10.2023 registered under Sections 406, 498-A, 323, 506, 148 and 149 IPC at Police Station Chabbewal, District Hoshiarpur, Punjab; and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners inter alia submits that petitioner No.1 is the father-in-law, petitioner No.2 is the mother-in-law, petitioners No.3 and 4 are the brothers-in-law, petitioner No.5 is the sister-in-law/jethani of complainant; and petitioner No.6 is the aunt of husband of the complainant. Complainant is not impleaded herein as respondent.

3. Learned counsel submits that the complainant is a Lady Constable in Punjab Police and was married to the son of petitioners No.1

and 2, namely Jasvir Kumar on 04.11.2015. Learned counsel submits that the complainant has misused her position and falsely implicated the entire in-laws family by filing the present false and fabricated FIR. It is contended that the petitioners have no connection with the complainant or her husband. Accordingly, present FIR be quashed qua the petitioners. It is submitted that earlier also, a complaint had been filed by the complainant on the same allegations and against the same accused and therefore, present FIR is abuse of process of law and deserved to be quashed qua the petitioners.

4. No other argument is made on behalf of the petitioners.

5. I have heard learned counsel for the petitioners and perused the case file in detail.

6. Brief facts of the case, as per the complainant and as recorded in the FIR No.96 dated 30.10.2023 (Annexure P1), are that the complainant was married to the son of petitioners No.1 and 2, namely Jasvir Kumar on 04.11.2015. It has been stated in the FIR that after some time of the marriage, the in-laws' family started harassing the complainant for dowry because of which she was even turned out of the matrimonial home. Thereafter, Jasvir Kumar had filed a petition for divorce against the complainant, which was rejected vide order dated 30.05.2019 by learned Family Court, Hoshiarpur against which an appeal is stated to be pending before this Court. The complainant had also filed a case for domestic violence against her husband and the petitioners before the learned JMIC, Dasua, which is also stated to be pending. In the said case, apparently an

order was passed permitting the complainant to stay at her in-laws house. As per the FIR, in pursuance to the said order, the complainant went to her in-laws' house on 18.10.2023, whereupon she was beaten up by her husband and other accused being the present petitioners. FIR shows that very serious allegations have been made therein that *"..In this, my husband came very angry and grabbed my hair and started to run, to grab the bottle of kerosene oil to my husband and started saying that he should do the work today, the daily work should be over. I started running there to save my life, but outside the yard of the house, in the street, my husband Jasvir Kumar grabbed me by the wall and threw me against the wall. On which my husband put oil on my head, all my clothes got wet with oil. My aunt, who was present with me, brings in a box of tinder to set it on fire..."*. Petitioner No.6-Binder who is aunt/mother-in-law of the complainant, is alleged to have assisted Jasvir Kumar in the above said act.

7. Learned State Counsel on instructions from ASI Rajwinder Singh submits that challan has not yet been presented in the present case. This fact is not disputed by the petitioners. As such, in fact, the present petition is not maintainable.

8. Besides this, even the legal position in such like cases is very clear. A bare perusal of the FIR has revealed that very serious allegations have been made against the petitioners therein. In such a situation, it would be apposite to refer to a 3-Judge Bench of the Hon'ble Supreme Court in case titled as **"M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Others"** Law Finder Doc ID # 1830709, relevant part of which is reproduced hereinbelow:-

“10. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, in the rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C., 1973 is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an 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 in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C., 1973

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., 1973 only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the

allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

(Emphasis supplied)

9. Reliance may also be placed upon judgment of Hon’ble Supreme Court in **“Satvinder Kaur Vs. State (Govt. of NCT of Delhi)”** Law Finder doc ID # 32588, wherein it has been held as under:-

“D. Criminal Procedure Code, 1973, Section 482 - Quashing of FIR - Law enunciated by Supreme Court summed up :-

- (i) If an offence is disclosed, Court will not normally interfere with investigation into the case and will permit investigation into the offence - If FIR, prima facie, disclosed commission of an offence, court does not normally stop the investigation, for to do so would be to trench upon the lawful power of Police to investigate into cognizable offences. 1982(1) SCC 561.*
- (ii) For purpose of exercising power under Section 482 Criminal Procedure Code, 1973 to quash FIR or a complaint, the High Court would have to proceed entirely on basis of allegations made in the complaint or the documents accompanying the same - It has no jurisdiction to examine the correctness or otherwise of the allegations. 1985(2) SCC 370.*
- (iii) Power of quashing the criminal proceedings should be exercised very sparingly with circumspection and that too in the rarest of rare cases.*
- (iv) Court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. 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.

- (v) *First information report is only an initiation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation itself should be quashed, utmost care should be taken by the court and at that stage it is not possible for the Court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. 1991(1) RCR (Criminal) 831.*
- (vi) *High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under Section 482 or under Articles 226 and 227 of the Constitution of India and allow the law to take its own course.*
- (vii) *Such power should be sparingly and cautiously exercised only when the court is of the opinion that otherwise there will be gross miscarriage of justice.*
- (viii) *Social stability and order is required to be regulated by proceeding against the offender as it is an offence against the society as a whole.”*

10.

In view of the factual and legal position, as noticed above, I find no merit in the present petition and the same is accordingly, **dismissed.**

11.

Pending application(s) if any also stand(s) disposed of.

04.04.2024	(Nidhi Gupta)
Sunena	Judge
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No