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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 19.10.2024

Babu Ram

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Nehra, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.
None for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure 1973 (hereinafter to be referred as “Cr.P.C.”), by the petitioner for quashing of FIR No.72 dated 25.04.2023 (impugned FIR) registered under Section 498-A of Indian Penal Code, 1860 at Police Station Dasuya, District Hoshiarpur, Punjab and all consequential proceedings arising therefrom.
2. It would be pertinent to refer herein to the factual matrix of the present *lis*:
- (i) The impugned FIR, as spelt out in the present petition, is as follows:

“Application for taking legal action against Babu Ram son of Sh. Maan Singh resident of 1174-A, Sector 46-B, Chandigarh; 9988102783; regarding demand of dowry and money etc.; while being in illicit relation giving beating, different types of mental & physical torture, attempt to kill, evicting out of the house, for not giving expenses, denial from settling in family, keeping the son forcibly, refrain from the compromise effected regarding giving son and regarding imparting justice. Respected Sir, It is submitted that



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I, Pinki wife of Babu Ram and daughter of Sh. Om Prakash am resident of Village Sagra Police Station Dasuha District Hoshiarpur and submits that my marriage was solemnized with above mentioned Babu Ram on 08/2011 and it was our love marriage and the above Babu Ram was working as Class-IV employee at Air force, Chandigarh. After the marriage, I and the said Babu Ram started living as husband and wife. After marriage my husband behaved well towards me for some time but later he started torturing me in different ways sometimes by finding fault in my work and sometimes in my walking etc. and then he started beating me. At that time I was pregnant, and then he started harassing me to bring money and dowry goods etc. from my parental home, but I could not even go to my parental home as I got married of my own free will, for which he started forcing me. During this time, my son was born, and after the birth of my son, my husband often started coming home late at night and many times he used to stay out of the house and used to quarrel when asked and even after coming home, he often kept talking to someone on the phone. And later, on checking his phone I found that he had illicit relations with many girls, regarding which I tried to make him understood but he started beating me and many times even evict me out of the home. Then I contacted my parents who got agreed with me/my wish and in order to settle my family they kept giving goods and cash etc. many times. But due to the greed of my husband and his illicit relationships, I was persecuted but I continued to bear everything for the future of my son and to settle my family. Finally, after 5 years of marriage, my husband beat me and tried to kill me and took away my child Akash and expelled me out of the house in three clothes. From that time I am residing in my parental home with my parents and my husband neither handed over my son to me nor he gave expenses etc, to me. And in the 11th month of the year 2019, on filing application by me, compromise was got effected between us that he will hand over my son to me and will pay expenses etc. as well but he refrained from the same. The accused is also refusing to settle me; giving me my son and from giving expenses etc. The above accused is doing all this on the instigation of his family and it is ruining my settled family and my child's future. I want to settle my family, but the above accused kept on committing torturing me due to the greed of dowry and money, kept on beating me and even tried to kill me and forcibly took my child away and evicted me from home and refused to give rightful dues of me and my child and is liable for punishment. And I want my child and my rights to be protected. Hence I need help from you. Therefore, it is requested that appropriate action be taken against the above-mentioned accused for torturing me for the sake of dowry and money and due



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relations, for attempt to kill to illicit me and for forcibly taking my child away and evicting me from home and refraining from compromise and my rights, expenses and child be got delivered to me. I shall be thankful to you for the act of kindness. Your faithfully, Sd/ Pinki daughter of Sh. Om Prakash resident of Village Sagra Police Station Dasuha District Hoshiarpur. Mobile No. 6284189713 dated 21.12.2022”.

(ii) The complainant/victim in the impugned FIR is Pinki, who has been impleaded as respondent No.2 (herein).

3. Learned counsel for the petitioner has iterated that no offence is made out against the petitioner from the facts and circumstances of the case. According to learned counsel, the evidence brought against the petitioner is weak in nature and is not credible. Learned counsel has submitted that the respondent No.2/complainant is not the legally wedded wife of the petitioner, and this fact has been affirmed, during the proceedings under Section 125 of Cr.P.C. for maintenance. It has been further iterated that the Family Court, Hoshiarpur, Camp Court, Dasuya has also dismissed the petition of respondent No.2 for maintenance under Section 125 Cr.P.C., 1973 on the ground(s), that no valid marriage could have taken place between respondent No.2-complainant and the petitioner as their marriage had taken place during the subsistence of the marriage of petitioner-husband with Pooja. It has been further submitted on behalf of the petitioner that the respondent No.2-complainant has stated that she had a love marriage with the petitioner in the year 2011, and the investigation reveals that she left the house in the year 2016. However, no specific date, time or instance has been provided, and there is an unexplained delay of over 08 years in lodging the present FIR. It has been further reiterated on behalf of the petitioner that the complaint has been filed by the complainant with mala fide intentions and

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hence the continuation of the proceedings *qua* the impugned FIR would amount to gross abuse of process of law. Hence, quashing of the impugned FIR as also all proceedings arising therefrom has been sought for.

4. Learned State counsel has submitted that the allegations against the petitioner are serious in nature as he has harassed respondent No.2 both physically and mentally over dowry demands and eventually expelled her from his home in the year 2016. It has been further submitted that despite a written agreement between the petitioner and respondent No.2, the petitioner failed to return their male child as agreed and did not allow respondent No.2 to settle in his home. Furthermore, the petitioner continued to harass the respondent No.2 physically and mentally and there are specific allegations of harassment related to demands of dowry. Thus, dismissal of the instant petition has been prayed for.

5. Service of the instant petition was effected upon respondent No.2. However, none has caused appearance on behalf of the said respondent.

6. I have heard learned counsel for the petitioner and the State and have perused the record.

7. The primary allegation made in the impugned FIR against the petitioner relates to causing harassment to respondent No.2 both physically and mentally in relation to dowry demands and eventually expulsion of the complainant from the house. The petitioner has sought quashing of the FIR as also further proceedings on the ground that allegations raised in the FIR do not constitute any offence as neither the FIR nor the evidence collected disclose commission of any offence against him; the respondent No.2-



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complainant is not his legally wedded wife, which fact has been affirmed, during the proceedings under Section 125 of Cr.P.C., 1973. Moreover, the Family Court dismissed the petition of respondent No.2, primarily on the ground that no valid marriage exists between the parties. In the considered opinion of this Court, the proceedings initiated under Section 125 of the Cr.P.C. are summary in nature, meaning they are intended to provide swift relief without delving deeply into the complex legal issues. This provision is primarily designed to offer a quick remedy for individuals, such as wife, children, and parents, who are unable to support themselves. The objective is to prevent destitution and ensure a basic standard of living by granting maintenance, without requiring a full trial or exhaustive evidence. However, the findings in these proceedings do not have a binding effect on any other civil or criminal court. It would be apposite to refer herein to a judgment rendered by the Hon'ble Supreme Court in ***Nagendrappa Natikar vs. Neelamma***, 2013 AIR (Supreme Court) 1541; the relevant whereof reads as under:

“10. Section 125 Criminal Procedure Code is a piece of social legislation which provides for a summary and speedy relief by way of maintenance to a wife who is unable to maintain herself and her children. Section 125 is not intended to provide for a full and final determination of the status and personal rights of parties, which is in the nature of a civil proceeding, though are governed by the provisions of the Criminal Procedure Code and the order made under Section 125 Criminal Procedure Code is tentative and is subject to final determination of the rights in a civil court.”

Furthermore, in a judgment rendered by Hon'ble Supreme Court titled as ***Kamala and others vs. M.R. Mohan Kumar***, 2018(4)

RCR(Criminal) 894; it has been held as under:



*“15. Unlike matrimonial proceedings where strict proof of marriage is essential, in the proceedings under Section 125 Cr.P.C., 1973 such strict standard of proof is not necessary as it is summary in nature meant to prevent vagrancy. In **Dwarika Prasad Satpathy v. Bidyut Prava Dixit, 1999(4) RCR (Criminal) 577 : (1999) 7 SCC 675**, this Court held that “the standard of proof of marriage in a Section 125 proceedings is not as strict as is required in a trial for an offence under section 494 IPC. The learned Judges explained the reason for the aforesaid finding by holding that an order passed in an application under Section 125 does not really determine the rights and obligations of the parties as the section is enacted with a view to provide a summary remedy to neglected wives to obtain maintenance.”*

7.1 Indubitably, the proceedings undertaken under Section 125 of Cr.P.C are summary in nature. The Hon’ble Supreme Court in the five Judge Bench judgment of **Barbara alias Dolly Sethurathinam**(supra) has unequivocally held that the procedure adopted in a petition under Section 488 of Cr.P.C., 1898 (later on, Section 125 of Cr.P.C., 1973) is summary one and does not finally determine the rights/obligations of rival parties as these proceedings are aimed at being a summary/expeditious remedy for preventing vagrancy. To the similar effect is the ratio decidendi of the judgments by the Hon’ble Supreme Court in the case of **Neelamma**(supra) and **M.R. Mohan Kumar** (supra).

7.2. In the instant case; the petitioner came in contact with respondent No.2 in the year 2011. Both the parties lived together and cohabited in a rented accommodation in Chandigarh. It is the conceded position that before the Family Court, the petitioner acknowledged that due to mutual love and affection, they did not wish to live separately and were in a live-in relationship. As a result of this relationship, a male child was born

on 13.09.2012. Subsequently, the petitioner started harassing respondent



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No.2 both physically and mentally for dowry, eventually expelling her from his house. In addition, the complainant and the statement recorded by her under Section 161 of Cr.P.C., contain specific allegations regarding harassment for dowry and money. Respondent No.2, the victim, namely Pinky, has fully reiterated her stand during investigation. Based on these statements, a final report under Section 173 of Cr.P.C. was submitted before the competent Court and charges were framed against the petitioner on 12.03.2024. The contention of the learned counsel for the petitioner; that respondent No.2 is not the legally wedded wife of the petitioner; cannot be looked into, in detail, at this stage, as the same are matter of trial and no ratiocination on the same can be made at this stage. The same can be completely ascertained only after adducing evidence by the parties. The respondent No.2/ victim namely Pinky has wholeheartedly supported her version during investigation. On the basis of these statements, the final report under Section 173 of Cr.P.C. was submitted before the competent Court of jurisdiction and charges have been framed against the petitioner on 12.03.2024. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in the case of ***Smt. Shiramabai w/o Pundalik Bhave & Others vs. The Captain, Record Officer for O.I.C. Records, Sena Corps Abhilekh Gaya, Bihar State and Another***, 2023 INSC 744; 2023 ***LiveLaw (SC) 672***, relevant whereof reads as under:

“20. It can be discerned from the aforesaid line of decisions that the law infers a presumption in favour of a marriage when a man and woman have continuously cohabitated for a long spell. No doubt, the said presumption is rebuttable and can be rebutted by leading unimpeachable evidence. When there is any circumstances that weakens such a presumption, courts ought not to ignore the same. The burden lies heavily



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on the party who seeks to question the cohabitation and to deprive the relationship of a legal sanctity.”

7.3 The main contention has raised by the petitioner, is regarding non-existence of requisite marital relation between the petitioner and the complainant (respondent No.2 herein). The said contention being totally factual in nature, cannot be looked into, at this stage, especially in light of the fact that the contention being of factual nature, has to be gone into during the course of trial after consideration of evidence led by the rival parties. The Hon'ble Supreme Court in catena of judgments has held, that while exercising inherent jurisdiction under Section 482 of Cr.P.C., the High Court is not required to hold a mini-trial. A profitable reference can be made to the judgment in the case of ***CBI versus Aryan Singh (2023 SCC Online SC 379)***, relevant whereof reads as under:-

“Para10... As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr.P.C., the Court is not required to conduct the mini-trial.

At the stage of discharge and/or exercising the powers under Section 482 Cr.P.C., the Court has a very limited jurisdiction and is required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not.”

At this stage, such a detailed discussion on disputed question of fact is not warranted, otherwise it would amount to exceeding the jurisdiction vested by way of Section 482 Cr.P.C., 1973. A disputed question of fact is to be addressed after a proper appreciation of evidence which can be done only during trial and not at this stage.

7.4. The High Court derives its power of quashing a criminal proceeding pending before any subordinate Court from Section 482 Cr.P.C.,



1973. Such a power should be exercised sparingly only with a view to prevent abuse of process of any Court or otherwise to secure the ends of justice. In this regard, reference may be made to dicta of the Hon'ble Supreme Court in the case titled as ***State of Haryana and others vs. Ch. Bhajan Lal and others, AIR 1992 SC 604***, relevant whereof reads as under:

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of Jaw enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code which; we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- 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 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.*
108. *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry 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.”*

In my ratiocinated opinion, the present case does not fall within any of the criterion as enunciated by the Hon’ble Supreme Court in ***Bhajan Lal*** (supra).

7.5. Therefore, keeping in view the totality of the facts and circumstances of the case in hand, this Court is of the considered view that the present petition seeking quashing of the FIR in question as also all proceedings emanating therefrom deserves to be dismissed.

Decision

8. Accordingly, the present petition seeking quashing of FIR bearing No.72 dated 25.04.2023 (impugned FIR) registered under Section



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498-A of Indian Penal Code, 1860 at Police Station Dasuya, District Hoshiarpur, Punjab and all consequential proceedings arising therefrom, is dismissed.

- 9. Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Family Court shall proceed further, in accordance with law, without being influenced therefrom.
- 10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

October 19, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No