

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

261

CRM-M-36567-2018 (O&M)
Date of order: 04.03.2024

Inderjit Singh Sohal

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Parminder Singh, Advocate
for the petitioner.

Mr. Prabhdeep S. Bhandari, AAG Punjab.

Mr. Dhanpat Rai Singh, Advocate
for respondent No.2.

Nidhi Gupta, J.

Prayer in the present petition filed by the petitioner/accused under Section 482 Cr.P.C. is for quashing on merits of FIR No.4 dated 23.05.2018 registered under Sections 406 and 498-A IPC at Police Station NRI, Bathinda (Annexure P1), qua the petitioner.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the complainant/respondent no. 2 herein on 28.9.2014. As the complainant was a permanent resident of Canada, she sponsored the petitioner and subsequently, the parties moved to Canada. It is submitted that perusal of the FIR shows that majority of the offences mentioned therein have been alleged to have been committed in Canada. It is contended that accordingly, no cause of action has arisen in India; and therefore, the present FIR deserves to be quashed.

3. It is further submitted that notice was issued in the present case vide order dated 24.08.2018 by a Co-ordinate Bench of this Court, whereby it was also directed that no coercive steps shall be taken against the petitioner. It is submitted that despite the above said direction, respondent No.1 issued look out circular against the petitioner on 21.07.2021 (Annexure P15), which was placed before this Court vide application bearing No.CRM-11719-2023.

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

5. I have heard learned counsel, as also gone through the case file in minute detail.

6. Notice was issued in the above said CRM-11719-2023 by a Co-ordinate Bench of this Court on 20.03.2023. Learned State counsel was also directed to file reply. In pursuance to the same, learned State Counsel filed reply dated 24/28.04.2023 by way of affidavit of Paramjit Singh, PPS Deputy Superintendent of Police, NRI Wing, Bathinda. In para 3 of the aforesaid status report, it has been stated as under:-

“3. That on receipt of the notice on present petition the respondent has initiated the process of removing the apprehensions of the petitioner regarding the Look-out Circular and his arrest. The SHO Police Station NRI wing Bathinda was directed to get the Look-out Circular suitably amended. Consequently the SHO Police Station NRI Wing Bathinda has written to the the Assistant Inspector General of Police NRI Wing Patiala vide his letter No. 413/5-A dated 10.04.2023 requesting him to approach the Additional Director General of Police, Internal Security, Punjab, to get amended the above said look out Circular. While in the original look out Circular, it was provided that if the person with regard to whom the

lookout Circular has been issued try to enter or leave India, he should be intercepted and taken into custody. But in the amended lookout Circular he is not to be intercepted or taken in custody but only information about his entering/leaving India is to be conveyed to the concerned Police Station. Thus now the petitioner should not have any apprehension of his arrest".

(Emphasis added)

7. As regards prayer of the petitioner with regard to quashing of FIR, perusal of the FIR reveals that although certain allegations have been made against the parents of the petitioner, however, the petitioner is the only formal accused. It is but trite to say that if it was the intent of the complainant to unduly harass the petitioner and his family, then general omnibus allegations would have been made against the entire family of the petitioner in an effort to embroil all of them in unnecessary litigation. However, that is not so.

8. Perusal of the FIR reveals that specific allegations have been made against the petitioner giving dates and instances of cruelty and harassment. It has been stated that marriage of the petitioner was fixed with respondent No.2 for 28.09.2014. It has been alleged that after the shagun ceremony on 7.9.2014, father of the petitioner had called father of respondent No.2 and demanded Rs.20 lakh for a car. As wedding cards had already been distributed by the complainant side and it would have been humiliating to call off the marriage, the complainant side acceded to the demand made by the father of the petitioner and after a lot of discussion, persuaded father of the petitioner to settle at Rs.15 lakh. It is alleged that

the petitioner side had also demanded gold ornaments for the petitioner and other relatives. Therefore, the complainant's father had paid Rs.15 lakh and gold ornaments weighing 16 tolas.

9. It has further been alleged that even after the marriage, the complainant was subjected to cruelty over demands of dowry. It has been alleged that within 5–6 days of marriage, ₹5 lakhs were demanded for furniture. Moreover, all the gold ornaments and money that were given to the complainant by her family, were taken away by the petitioner and his parents when the complainant went to Canada.

10. It is in this background that father of respondent No.2 lodged the complaint dated 12.2.2018 with the SSP Bathinda, which was marked to DSP, Talwandi Sabo for inquiry, who vide report dated 28.2.2018 (Annexure P-3), concluded that no offence was committed in India. In the meantime, an email was also received from the complainant by Police Station NRI, Bathinda, which was sent to the office of IGP, NRI and Women Cell, Punjab, SAS Nagar for approval to conduct enquiry. Said approval was granted vide letter dated 20.2.2018. The case was also taken up by the District Family Welfare Committee, Bathinda, which conducted an inquiry by joining both the parties. After considering the evidence from both sides the aforesaid Committee concluded that the complainant had been subjected to cruelty by the petitioner for dowry. On the basis of these above enquiries and findings, present FIR was registered on 23.5.2018 at Police Station NRI Bathinda under Sections 406 and 498-A IPC.

11. It is to be noted that in the meantime, even prior to the registration of the FIR, the petitioner had also sent a detailed statement-

cum-representation dated 10.03.2017 to SHO Police Station NRI Bathinda along with some photographs and documents. As such, contention of the petitioner that jurisdiction does not lie in India, deserves to be rejected as it was the petitioner himself who had first approached the authorities here. It is also to be noted that the petitioner has failed to make any mention of this representation dated 10.3.2017 in his present petition.

12. The second application dated 05.07.2018 was submitted by the petitioner pleading his innocence. The third application was submitted by the petitioner bearing UID No.1378362 dated 11.07.2018, seeking cancellation of FIR No. 4 dated 23.05.2018. Said application was also enquired into by the DSP, NRI Wing, Patiala through Inspector Puneet Singh Chahil. However, as the petitioner failed to produce any oral or documentary evidence in support of his innocence, the FIR was found to have been correctly registered. Meanwhile, father of the complainant had also submitted an application seeking the implication of the parents and other family members of the petitioner. This application was also rejected at that stage, till any other impeccable evidence came on record against the petitioner's family members. Thereafter, the petitioner was repeatedly requested to join investigation but he has refused to do so.

13. It has also come on record that no doubt, the complainant has been staying in Canada however, undisputedly, she had remained in India at village Samadh Bhai for about 3 months after her marriage in 2014 and it is during this period, as also prior to her marriage that the cause of action had arisen commencing from 07.09.2014 to 15.02.2018. During this period, a significant number of occurrences as

mentioned in the FIR had taken place in India within the jurisdiction of NRI Police Station Bathinda.

14. Perusal of FIR also reveals that serious and specific allegations have been made against the petitioner to the effect that he was habitual of alcohol, tobacco, drug pills, and other drugs; he gets drunk and beats the complainant; when on 02.01.2018 a baby girl was born to the complainant, the petitioner and his family were not happy and therefore, the petitioner beat the complainant. As such, the complainant had earlier also complained to the police whereupon the police had summoned the petitioner to the Police Station, however, he was given a warning and left.

15. The fear and anguish of the complainant is evident from a bare reading of the FIR. She has stated that though her parents-in-law used to live in Canada yet, they did not help her even during her pregnancy; and the complainant is still living under pressure and there is every apprehension that all the accused could kill the complainant and her daughter. The petitioner and his family members had tortured and beat the complainant multiple times and the petitioner had threatened her of killing her family in India, and that she was very scared that the petitioner and his parents would kill her and her child and her family but she had had enough and wanted to save her baby and family.

16. It is my considered opinion that, in view of the above facts considered in totality, it cannot by any stretch of imagination, be said that the complainant has made general, vague, and/or omnibus allegations against the petitioner. In such a situation, it would be unjust to summarily quash the present FIR without properly enquiring into the allegations. No

doubt, this Court is flooded with cases where malicious prosecution is initiated by disgruntled daughters-in-law against their aged parents-in-law and the entire family of their husband. However, in the facts and circumstances of the present case, I do not find this to be one such case.

17. Reference may be made 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)

18. In view of the uncontroverted factual and legal position as noticed above, I find no ground is made out to quash FIR No.4 dated 23.05.2018 registered under Sections 406 and 498-A IPC at Police Station NRI, Bathinda (Annexure P1). Present petition, accordingly, stands **dismissed.**

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

20. However, nothing stated above, shall be construed to be an expression of opinion on the merits of the matter.

04.03.2024

Sunena

(Nidhi Gupta)

Judge

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