

115
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19221-2024 (O&M)
Date of decision: 22.04.2024

Baljinder Jeet Singh and another
... Petitioners

Vs.

State of Punjab and another
... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anter Singh Brar, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) for quashing of FIR No.534 dated 29.12.2022 (Annexure P-1) under Sections 406 & 498-A of the Indian Penal Code, 1860 (for short ‘IPC’), registered at Police Station City Faridkot, District Faridkot, challan dated 18.04.2023 (Annexure P-3), chargesheet dated 06.10.2023 (Annexure P-5) and all the subsequent proceedings emanating therefrom.

2. Learned counsel for the petitioners, *inter alia*, contends that the petitioners are innocent and they have been falsely implicated in the present case. FIR (*supra*) was registered on the application moved by respondent No.2 and there are no specific allegations against the petitioners and they are living separately in their village since 20.08.2021. Reliance in this regard has been placed upon Annexure P-6. It is further contended that in fact, respondent No.2 has inflicted injuries to petitioner No.2 and the petitioners absolutely have no role in the matrimonial life of respondent No.2. Admittedly respondent No.2 is residing separately in the house owned by the petitioners and on 20.08.2021, the petitioners were thrown out of their house by her and her brother and she usurped the entire household articles owned by them and the petitioners made an application dated 26.05.2022 (Annexure P-7) to the Senior Superintendent of Police, Faridkot that their son went missing. The petitioners also approached Director General of Police, Punjab by filing a complaint dated 01.06.2022 (Annexure P-8) and thereafter, they approached this Court by filing CRWP-5473-2022, in which Warrant Officer was appointed. He further relied upon report of Warrant Officer. Thereafter, the petitioners filed CRM-M-31920-2022 seeking protection to their lives and liberty and for directions to hand over the investigation of FIR (*supra*) to CBI or some independent agency like Crime Branch, Punjab Police/CID or not below the rank of DIG Police. Learned counsel further relies upon the complaint dated 15.06.2022 (Annexure P-14) under the provisions of the

Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as DV Act), in which there are no allegations against the petitioners and they are being dragged into the controversy only for the purpose that they are parents of husband of respondent No.2.

3. Learned counsel for the petitioners further contends that the petitioners approached the Electricity Board for disconnection of the electric connection, as they were not residing in the house and thereafter, respondent No.2 filed an application for restoration of the electric connection before the Electricity Board, in which also, there is no allegation against the petitioners. Thereafter, son of the petitioners filed a petition under Section 10 of the Hindu Marriage Act, 1955 for declaring the marriage with respondent No.2 as null and void and in the reply filed by respondent No.2 also, no specific allegations were levelled against the petitioners. It is apparent on record that FIR (*supra*) is a counter-blast to the complaints made by the petitioners (Annexures P-7 & P-8) before the jurisdictional police authorities. Even when the petitioners approached this Court and filed CRM-M-31920-2022, although respondent No.2 appeared in the Court with her counsel, but did not chose to file the reply.

4. Per contra, learned State counsel appears on advance notice and submits that the averments made by the petitioners are totally contrary to the record and during the investigation, it has been found that Rs.28.00 lacs have been transferred into account of petitioner No.1 by way of RTGS at the time

of marriage. It has further been found that respondent No.2 was harassed after birth of male child and demand of Fortuner Car was made. Respondent No.2 was subjected to cruelty and mental harassment, as petitioner No.1 got disconnected the electricity supply. Respondent No.2 got the electric connection restored by filing a case before the Lok Adalat, Faridkot. Learned State counsel further submits that petitioner No.1 moved to this Court by filing CRM-M-31920-2022 with the allegations that his son Gurshan Singh had been kidnapped by respondent No.2. However, his son was traced and he made a statement under Section 164 Cr.P.C. to the effect that he left the house on his own and there is no foul play on the part of respondent No.2 in his disappearance. Learned State counsel also submits that aforesaid false allegations were levelled due to private spite to wreak vengeance on respondent No.2 and learned trial Court, after finding a prima facie case, framed charges against the petitioners. Further, this Court cannot appreciate the defence set up by the petitioners in the present petition, as the same would be a matter of trial.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no merit in the arguments advanced by learned counsel for the petitioner.

6. Perusal of the record reveals that there are specific allegations that at the time of marriage, Rs.28.00 lacs were transferred into bank account of petitioner No.1 through RTGS by the family members of respondent No.2.

Moreover, perusal of the record indicates that Warrant Officer, in his report dated 04.06.2022, concluded that detenue Gurshan Singh was not found in illegal detention of respondent No.2 and her relatives. Perusal of the complaint (Annexure P-14) filed by respondent No.2 under DV Act also indicates that there are specific allegations of transfer of Rs.28.00 lacs in the bank account of petitioner No.1 and after giving birth to a male child, the petitioners along with their son had been harassing her and were demanding Fortuner Car or Rs.35.00 lacs in cash, in '*Sushak*' from her parents. It is also specifically mentioned in para No.6 of the complaint under the DV Act (Annexure P-14) that the petitioners filed a writ petition on false allegations against respondent No.2 under the DV Act. Further, it is a matter of evidence that whether the petitioners were living separately or not. The allegations contained in the FIR (*supra*) would show that the petitioners were living together with respondent No.2 at the relevant time. It is trite law that disputed questions of facts cannot be appreciated under Section 482 Cr.P.C., therefore, this Court cannot appreciate the defence set up by the petitioners. However, convincing it may seem in the present petition.

7. It is a settled law 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 is not to adjudicate upon a disputed question of fact. Accordingly, present petition is dismissed.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

22.04.2024
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[HARPREET SINGH BRAR]
JUDGE

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