



**255 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-24502-2021
Date of decision: 18.07.2024

Rahul Kauldhar and anotherPetitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Ahluwalia, Advocate with
Mr. K.K. Saini, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

Mr. Kunwar Raja, Advocate
for respondent No. 2.

HARPREET SINGH BRAR, J.

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR No. 236 dated 03.12.2020 (Annexure P-1) registered under Sections 498-A, 406, 323, 342, 380 and 120-B of the Indian Penal Code 1860 and Sections 3, 4 of the Dowry Prohibition Act, 1961 at Police Station Kotwali Nabha, Patiala and all subsequent proceedings arising therefrom.

2. Briefly, the facts are that the FIR (supra) has been lodged by respondent no.2-complainant against her husband and 5 other members of her in-laws family including the present petitioners, who are brother-in-law (*Jeth*) and sister-in-law (*Jethani*) of the complainant. The FIR (supra) came to be registered on the basis of an application dated 03.12.2020 submitted by respondent no.2, wherein, it was alleged that her marriage was solemnized with the brother of petitioner no.1 on 27.02.2020. At the time of the aforesaid



marriage, Rs.1 crore was spent by the parents of the complainant and various household items and ornaments were given to the accused. Soon after marriage, the accused started harassing the complainant for bringing insufficient dowry and further demanded Rs.1 crore cash and a Fortuner car. Further, the accused gave beatings to the complainant on multiple occasions and even left her starving by locking her in a room. On 02.03.2020, all the accused again beat her where petitioner no.2 held her from her hair and petitioner no.1 stood nearby and provoked others. On the occasion of marriage of brother of petitioner no.2, i.e., 08.03.2020, she stole a 15 *tola* Kundan Set belonging to the complainant. The complainant saw the petitioner no.2 wearing the aforesaid jewellery set but was assured by her husband that the same would be returned back to her after the marriage ceremony. On 03.03.2020, when the petitioners had gone to attend the aforesaid marriage, other accused had also taunted her for not bringing a Fortuner car. Later in the day on 08.03.2020, when they returned to her matrimonial home after attending the said marriage, the complainant was again taunted by her father-in-law and mother-in-law. Even the Kundan set was never returned by the petitioners. When the complainant narrated the entire matter to her parents, she was brought to her parental home on 09.03.2020. However, husband of the complainant brought her back to the matrimonial home on 10.06.2020 on assurance that she would be treated well. But on 12.06.2020, the co-accused again started with their dowry demand and when she opposed their demand, her father-in-law set off their pet dog upon her due to which she suffered injuries on her leg. Further, she was not allowed to receive proper medical care. On 06.07.2020, the complainant was taken to her parental home by her brother but her husband came and brought her back to the matrimonial home on 24.07.2020. Then on 05.08.2020, the other accused again



raised their illegal dowry demand of Rs.1 crore cash and 1 Fortuner car but when the complainant refused, she was given beatings by them. Aggrieved, the complainant went back to her parental home on 07.08.2020 and has been residing there ever since. It was also alleged by the complainant that her *Istridhan* has been misappropriated by the accused.

3. Learned counsel for the petitioner *inter alia* contends that the allegations levelled against the petitioners, who are brother-in-law and sister-in-law of respondent no.2-complainant, are omnibus and vague. He further submits that both the petitioners are permanent residents of Canada and have residing there long before the marriage of the complainant with the brother of petitioner no.1. It is further contended that the petitioners met the complainant for a very limited period as shown by the immigration stamps on their respective passports which have been appended with the present petition. The travel records of the petitioners clearly show that they came to India on 22.02.2020 to attend the wedding of complainant and brother of petitioner no.1 and returned to Canada on 13.03.2020. This shows that the petitioners were in India for about 2 weeks and out of that period, they stayed under the same roof with the complainant for less than a week. He further submits that in the instant FIR, the complainant has tried to array the petitioners as residents of SAS Nagar, Mohali and as if she lived with them in a joint family set up. The fact that the petitioners have been residing in Canada for the last so many years has been suppressed by the complainant. It is vociferously argued that the present FIR is a sheer abuse of the process of law since it is obverse to the observations made by the Hon'ble Supreme Court in the case of ***Lalita Kumari vs. State of Uttar Pradesh, 2014(2) SCC(1)*** as the perusal of the case file clearly shows that the FIR has been registered on the same day respondent no.2 submitted her



complaint which means that no preliminary inquiry was made by the concerned police.

4. Learned counsel for respondent no.2-complainant contends at the outset that there are specific allegations qua the present petitioners in the instant FIR and given the serious nature of the allegations, any interference by this Court is not warranted at this stage. He further contends that the petitioner have concealed material facts in the present petition which vitiates their stand completely. It is further contended that the whole incident where the father-in-law of the complainant let their pet dog to bite her on her leg has been recorded in the CCTV cameras and photographs of the wound have been annexed as Annexure R-2 and the patient card of the hospital as Annexure R-2/3 in the reply filed by respondent no.2. He also argues that as per the settled law jurisdiction of this Court under Section 482 Cr.P.C. cannot be invoked in a routine manner.

5. Learned State counsel reiterates the submissions made in the status report presented by way of affidavit of Rajesh Kumar Chhibber, DSP, Circle Nabha, District Patiala. Further submits that specific allegations have been levelled by respondent no.2 against the petitioners and any averments made by the petitioners are a matter of trial.

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioners arrived in India on 22.02.2020 to attend the marriage of the complainant with the brother of petitioner no.1 which took place on 27.02.2023. As per the case of the complainant herself, the petitioners went away on 02.03.2020 to attend the marriage of brother of petitioner no.2 and returned on 08.03.2020. Whereas, the complainant went to her parental home on 09.03.2020 only to return on



10.06.2020 and in the meanwhile, the petitioners returned to Canada on 13.03.2020 itself. It comes to the fore that the petitioners resided with the complainant under the same roof for hardly 4 days. The aforesaid fact was completely concealed by the complainant in her application made to the concerned police which formed the basis of the FIR (supra). Moreover, the allegations made by respondent no.2 seem far-fetched and appear to have been made only to rope in all the family members of the accused husband no matter how far away they live. It is trite law that High Court should not go into disputed questions of fact while exercising its inherent power under the Code of Criminal Procedure as the same should be used with parsimony. However, when it so needed to secure the ends of justice, the High Court must not be circumspect to look into circumstances of the case in its entirety where the allegations levelled in FIR/Complaint are frivolous and emerge from an unscrupulous intent. Quite recently, a two-judge Bench of the Hon'ble Supreme Court in the case of ***Achin Gupta vs State of Haryana and Anr., 2024(2) R.C.R(Crl.) 880***, proceeded to quash the proceedings against the accused-husband arising out of an FIR under Section 323, 406, 498A, 506 of IPC on the grounds that allegations lacked specificity and the FIR was vexatiously registered 2 years after the divorce proceedings. Speaking through Justice J.B. Pardiwala, following observations were made which are pertinent to the case at hand :-

“19. It is also pertinent to note that the Respondent No. 2 lodged the FIR on 09.04.2021, i.e., nearly 2 years after the filing of the divorce petition by the Appellant and 6 months after the filing of the domestic violence case by her mother-in-law. Thus, the First Informant remained silent for nearly 2 years after the divorce petition was filed. With such an unexplained delay in filing the FIR, we find that the same was filed only to harass the Appellant and his family members.



20. *It is now well settled that the power under Section 482 of the Cr.P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr.P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice.*

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24. *This Court, in the case of **State of A.P. v. Vangaveeti Nagaiah, reported in (2009) 12 SCC 466 : AIR 2009 SC 2646**, interpreted clause (iii) referred to above, observing thus: -*

“6. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process no doubt should not be an instrument of oppression, or, needless harassment Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the Section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process



*of any court or otherwise to secure the ends of justice were set out in some detail by this Court in **State of Haryana v . Bhajan Lal [1992 Supp (1) SCC 335]**. A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows:*

“(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 FIR 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 F.I.R. 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.”

25. *If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.*

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29. *The learned counsel appearing for the Respondent No. 2 as well as the learned counsel appearing for the State submitted that the High Court was justified in not embarking upon an enquiry as regards the truthfulness or reliability of the allegations in exercise of its inherent power under Section 482 of the Cr.P.C. as once there are allegations disclosing the commission of a cognizable offence then whether they are true or false should be left to the trial court to decide.*

30. In the aforesaid context, we should look into the category 7 as indicated by this Court in the case of Bhajan Lal (supra). The category 7 as laid reads thus: -

“(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.”

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35. *In one of the recent pronouncements of this Court in **Mahmood Ali & Ors. v. State of U.P & Ors., 2023 SCC OnLine SC 950**, authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482 of the CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking*



vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”

7. Similarly, a three Judge bench of the Hon’ble Supreme Court in ***Abhishek v. State of Madhya Pradesh 2023(4) R.C.R.(Criminal) 239*** quashed the FIR under Section 498-A of the IPC against the mother-in-law and brother-in-law of the complainant and observed that the allegations were mostly general and omnibus in nature making them incongruous and difficult to comprehend. Speaking through Justice Sanjay Kumar, the scope of Section 482 Cr.P.C. qua quashing of FIR stemming from offence under Section 498-A was also deliberated upon and the following observations were made:

*“12. The contours of the power to quash criminal proceedings under Section 482 Cr.P.C., 1973 are well defined. In **V. Ravi Kumar vs. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu and others [(2019) 14 SCC 568]**, this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In **M/s. Neeharika Infrastructure (P). Ltd. v. State of Maharashtra and others [Criminal Appeal No.330 of 2021, decided on 13.04.2021]**, a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr.P.C., 1973 It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the 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 therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in **R.P. Kapur v. State of Punjab (AIR 1960 SC 866)** and **State of Haryana and others v. Bhajan Lal and others [(1992) Supp (1) SCC 335]**, the Court would have jurisdiction to quash the FIR/complaint.*

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*15. Earlier, in **Neelu Chopra and another v. Bharti [(2009) 10 SCC 184]**, this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.*

8. Pertinently, a two Judge bench of the Hon'ble Supreme Court in **Preeti Gupta v. State of Jharkhand (2010) 7 SCC 667** quashed the complainant against the sister-in-law of the complainant noting that the sole purpose of filing the complaint was to humiliate her and allowing criminal prosecution to continue would amount to an abuse of process of law. Speaking through Justice Dalveer Bhandari, the following was observed:

"34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic



realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”

9. Time and again, the Courts have highlighted the tendency of roping in all and sundry members of the husband’s family in cases filed under Section 498-A of the IPC. Recently, a two Judge bench the Hon’ble Supreme Court in ***Mahalakshmi and others v. State of Karnataka Criminal Appeal No. 494/2023*** decided on 30.11.2023 quashed the criminal proceedings under Section 498-A of the IPC against the husband’s sisters and cousins and observed that if the allegations are not serious and substantiated, and there is no clear evidence of accused’s involvement in the complainant’s marital life, they cannot be implicated under Section 498-A of the IPC.
10. As an upshot of the above, this petition is allowed and consequently, FIR No. 236 dated 03.12.2020 (Annexure P-1) registered under Sections 498-A, 406, 323, 342, 380 and 120-B of the Indian Penal Code 1860 and Sections 3, 4 of the Dowry Prohibition Act, 1961 at Police Station Kotwali Nabha, Patiala and all subsequent proceedings arising therefrom are hereby quashed qua the petitioners.
11. Pending CRMs, if any, shall be disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

18.07.2024
Neha

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