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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20975-2024 (O&M)
Date of decision: 29.04.2024

Vicky

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR JUSTICE HARPREET SINGH BRAR

Present: Mr. Shivam Chaudhary, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J.

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.15 dated 17.02.2022 under Sections 498-A, 323, 406, 506 of the Indian Penal Code, 1860, registered at Women Police Station Rohtak, Haryana and all the subsequent proceedings arising therefrom.
2. Brief facts of the case are that FIR (*supra*) was registered at the instance of respondent No.2 on the allegations that she got married with the petitioner on 19.02.2018 according to Hindu rites and rituals and

her parents spent huge amount on the marriage. After one week of the marriage, her in-laws started harassing her on account of bringing less dowry. She handed over the ATM card to her husband, but he was not giving money even for daily expenses. He demanded more dowry and asked the complainant to bring Rs.5.00 lacs from her parents. After 4-5 months of the marriage, she became pregnant and on 01.05.2019, she gave birth to a daughter. Thereafter, her in-laws changed their behaviour towards her, as they only wanted a son and started harassing her physically and mentally. On 23.09.2019, after some altercation between her and her in-laws, mother of the complainant came to her in-laws house and she took the complainant with her. On 29.12.2019, a meeting was convened in the village panchayat and her husband and in-laws apologized and assured not to harass the complainant again. Thereafter, she went to her matrimonial home. On 14.03.2020, her husband and in-laws demanded Rs.5.00 lacs and when she objected to it, her brother-in-law Manjeet and other in-laws gave severe beatings to her. When her family members from her maternal home came to her matrimonial home to pacify the matter, her in-laws misbehaved with them and after putting lock on the house and making her video, members of her in-laws family took away the jewellery and thrown out her and her family members from the house. Since then, she is living at her maternal home. With these averments, FIR (*supra*) was registered.

3. Learned counsel for the petitioner, *inter alia*, contends that no specific allegations are made against the petitioner and there is no evidence on record to corroborate the version given by the complainant-respondent No.2 and her statements are inconsistent. The decree of legal separation under Section 10 of the Hindu Marriage Act, 1955 was passed on 06.09.2021 and after five months of the same, as a counter-blast, FIR (*supra*) was registered on 17.02.2022. It is further contended that call records between the petitioner and real uncle (*chacha*) of respondent No.2 are available on record, which vindicates stand of the petitioner that respondent No.2 was never harassed on account of demand of dowry.

4. Per contra, learned State counsel appears on advance notice and submits that there are specific allegations against the petitioner and apart from cruelty and demand of dowry, the petitioner also used ATM card of respondent No.2 and withdrawn certain amounts from her salary account.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no force in the arguments raised by the learned counsel for the petitioner. The probable defence set up by the petitioner in the present petition cannot be appreciated in a petition under Section 482 Cr.P.C., as it is a matter of evidence. It is settled law that disputed questions of fact can only be adjudicated after the parties have duly adduced their evidence.

The High Court, in exercise of its inherent powers under Section 482 Cr.P.C. is obligated to make a just and equitable choice and cannot go beyond its ambit to evaluate the truthfulness of the allegations or the veracity of the defence, however, convincing it might seem. Any such attempt would be impermissible in law, as it would amount to giving finality to the accusations, even before the prosecution is allowed to adduce evidence to substantiate the same.

6. A two Judge Bench of the Hon'ble Supreme Court recently examined this issue in ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT of Delhi) and another, 2022 SCC Online SC 513*** and speaking through Justice Hrishikesh Roy, the following was observed:-

"17. The consequences of scuttling the criminal process at a pretrial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e, the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption."

7. A two Judge Bench of the Hon'ble Supreme Court in ***HMT***

Watches Ltd Vs. M.A. Abida, (2015) 11 SCC 776, speaking through Justice Dipak Misra, has held as under:

"10..... Whether the cheques were given as security or not, or whether there was outstanding liability or not is a question of fact which could have been determined only by the trial court after recording evidence of the parties. In our opinion, the High Court should not have expressed its view on the disputed questions of fact in a petition under section 482 of the Code of Criminal Procedure, to come to a conclusion that the offence is not made out. The High Court has erred in law in going into the factual aspects of the matter which were not admitted between the parties."

8. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Sampelly Satyanarayana Rao Vs. Indian Renewable Energy Development Agency Limited, (2016) 10 SCC 458***, speaking through Justice Adarsh Kumar Goel, made the following observations:-

"17. As is clear from the above observations of this Court, it is well settled 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 does not adjudicate upon a disputed question of fact."

9. In view of the aforesaid facts and circumstances of the case, present petition is dismissed being devoid of merit.

10. Pending application(s), if any, shall be disposed of.

11. Needless to say that nothing observed in this order shall be construed as an expression of opinion by this Court on the merits of the case, lest it may prejudice the outcome of the trial.

29.04.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

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