

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-22534-2023 (O&M)
Date of order: 05.03.2024

Love Mahajan & Others

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Simrat Kaur, Advocate
for the petitioners.

Mr. Sukhsandesh Singh Chahal, AAG Punjab.

Nidhi Gupta, J.

Prayer in the present petition under Section 482 Cr.P.C. is for quashing of complaint No.COMI-218 dated 06.10.2021 under Sections 406, 498-A, 506 and 34 IPC titled as "Bhumika Vs. Love Mahajan & Ors." (Annexure P1) pending before the learned Judicial Magistrate, 1st Class, Pathankot; and summoning order dated 21.03.2023 (Annexure P2) vide which the petitioners/ accused have been summoned under Sections 406, 498-A, 506 read with Section 34 IPC for 06.05.2023; and all consequential proceedings arising thereof.

2. Learned counsel for the petitioners inter alia submits that petitioner No.1 is the husband, petitioner No.2 is the mother-in-law, petitioner No.3 is the father-in-law and petitioner No.4 is the brother-in-law/Devar of the complainant/respondent No.2. Marriage of petitioner No.1 was solemnized with respondent No.2 on 18.04.2018. One daughter was born out of their wedlock. It is submitted that the petitioners have

been falsely implicated in the present case. In fact, it is respondent No.2, who was cruel towards the petitioners as she was having extra-marital affair, which was discovered by the petitioners and it is for this reason that the present false complaint has been filed against the petitioners. Parents of respondent No.2 came to the house of the petitioners on 24.08.2018 and took her away along with all her belongings. Hence, all the allegations made in the present complaint regarding dowry etc. are false and unsubstantiated. It is submitted that it has even been admitted by respondent No.2 to petitioner No.1 that she was having an extra-marital relationship. The petitioners had ignored the misbehaviour of respondent No.2 out of concern for the minor daughter. Petitioners No.2 and 3 are old aged and are suffering from great stress due to the actions and behavior of respondent No.2. Petitioner No.1 has also filed petition bearing No.HMA/20/2022 under Section 13 of Hindu Marriage Act, 1955 (Annexure P3). It is therefore, prayed that present complaint be quashed. In support, Id. counsel relies upon judgment of Hon'ble Supreme Court in **"Bhaskar Lal Sharma & Another Vs. Monica"** Law Finder Doc ID # 200847.

3. No other argument is made on behalf of the petitioners.
4. I have heard learned counsel for the petitioners and perused the case file in great detail.
5. Perusal of record of the case shows that respondent No.2 was married to petitioner No.1 on 18.04.2018. One daughter was born out of their wedlock. In the complaint (Annexure P1), number of allegations enumerated in great detail have been made against the petitioners along with dates of incidents. As per the complaint demands of dowry were

alleged to have been made by the petitioners from respondent No.2 and her family. In fact, perusal of record of the case shows that specific allegations have been made against each of the accused. It has been alleged that accused No.1 to 3 harassed respondent No.2 for bringing less dowry; instead of motorcycle, a car should have been presented. It is further alleged that marriage of petitioner No.4 was fixed for November, 2020, where jewellery of complainant was removed and given to wife of petitioner No.4.

6. It is the case of the petitioners that respondent No.2 was taken away by her parents on 24.08.2018; contrarily it is alleged in Para 11 of the complaint (Annexure P1) that it was petitioners No.1 and 2, who had left respondent No.2 at her parental home and did not come to take her back. It has further been alleged that on 24.08.2018, when the complainant was pregnant, she was taken to her parental home by the accused. Then, on the pretext of medical check-up, petitioners No.1 and 2 urged her to conduct a sex determination test, which was refused by parents of respondent No.2 whereupon, petitioners No.1 and 2 left her at her parental home with the instructions that in case sex determination test was conducted and male child was confirmed then they will accept respondent No.2 back after delivery with cash amount of Rs.10 lakh. Thereafter, when a female child was born, an amount of Rs.25 lakh was demanded. Clearly, serious allegations have been made in the complaint.

7. From the above, it is borne out that this is a case of allegations and counter allegations, truth of which would be established only by leading evidence before the learned trial Court. In the absence of

evidence by both the parties, it is impossible for this Court to determine the veracity of the allegations and counter-allegations made by each of the parties. It is only when the complaint/FIR is on the face of it absurd that this Court can be called upon to quash the complaint in question and that is not so in the present case.

8. In these circumstances, reference may be made to judgment of the Hon'ble Supreme Court in "**K. Subba Rao & Others Vs. The State of Telangana**" **2018 (14) SCC 452**, relevant part of which is reproduced hereinbelow:-

*"5. Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of process of a Court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See **State of Haryana v. Bhajan Lal, 1991(1) RCR (Criminal) 383: 1992 Supp. (1) SCC 335**. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See **Kans Raj v. State of Punjab & Ors. 2000(2) RCR (Criminal) 695: (2000) 5 SCC 207** and **Kailash Chandra Agrawal and Anr. v. State of Uttar Pradesh & Ors., 2014(4) RCR (Criminal) 439 : (2014) 16 SCC 551**".*

(Emphasis supplied)

9. Reference may also 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)

10. Ld. Counsel for the petitioners is unable to dispute the above said factual and legal position. Accordingly, in view of the complete facts and circumstances of the case, I find no merit in the present petition, and the same is hereby **dismissed**.

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

05.03.2024

Sunena

(Nidhi Gupta)

Judge

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