

Neutral Citation No. 2024:PHHC: 078249

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-23220-2024 (O&M)
Date of decision: 30.05.2024

Charanjit Kumar @ Charanjeet Kumar @ Rishu and others
...Petitioners

Versus

State of Punjab and another
...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. R. K. Arya, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners, who are husband, father-in-law and mother-in-law respectively of respondent No. 2/complainant, under Section 482 of Cr.P.C. seeking quashing of FIR No. 27 dated 11.02.2021 (Annexure P-1), registered under Sections 498-A, 406 and 323 of IPC at Police Station Kathu Nangal, District Amritsar and all the subsequent proceedings having emanated therefrom including order dated 25.08.2022 (Annexure P-3), whereby charges have been framed under Sections 498-A, 406, 323 read with Section 34 of IPC against the petitioners.
2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a written complaint filed by respondent No. 2/complainant Simranjit Kaur

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alleging therein that she was married with the petitioner No. 1 Charanjit Kumar @ Rishu with great pomp and show. Her parents had given gifts/dowry articles beyond their capacity to her husband and his family members and other relatives. Before marriage, *roka* ceremony was performed at Abhi Restaurant, Batala, in which also, several gifts and cash amount were handed over to the accused persons. After marriage, her in-laws family used to interfere a lot in her matrimonial life and they mistreated the complainant. She was taunted that her parents had not given dowry according to their status. The victim was insulted before her relatives for bringing insufficient dowry. She was subjected to harassment and cruelty on account of demand of dowry in the form of jewellery and cash amount of Rs. 10-15 Lakhs. The accused persons also took all her *stridhan* into their possession and misappropriated the same. She was extended threat by her brother-in-law Roban @ Poppy, who is serving in Army, by proclaiming that he has links with high officers and can get anything done. However, the complainant kept on maintaining the relations for the sake of her parents' respect and did not tell anything to them. When the complainant became pregnant, her husband and his family members raised demand of a big car and money on the pretext that her parents had not given sufficient dowry. On non-fulfillment of their demand, they started abusing and beating the victim and kept her locked inside the room for two days. When the victim was having acute pain, then she was taken to hospital for ultrasound on 11.06.2020. Thereafter, the victim was brought to her parental house, where she fell seriously ill and then the her husband along with Jaideep Singh @ Balli took her Sukhmani Hospital, Jaintipur along with her mother. Ultimately, the victim suffered a miscarriage and her in-laws did

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not come to take her back for a long time. When she called her husband, he refused to take her with him. When the in-laws of the victim were requested by the parents of the victim to let her settle in her matrimonial house, they flatly refused to rehabilitate her and insisted on fulfilling their demand of dowry. However, on 27.09.2020, the victim was taken by her father to her matrimonial home and a panchayat was convened there, subsequent to which, the matter was compromised and it was decided that the victim and her husband will stay in a separate house for three months without there being any interference from her in-laws. As the marriage of her brother-in-law was fixed for 13.10.2020, she was taken back to her matrimonial house by her in-laws. On 15.10.2020, her in-laws and husband raised demand of Rs. 5 Lakhs from her for the marriage of her brother-in-law and on her refusal to do the same, she was extended severe beatings by them. On 16.10.2020, her father had made her a telephonic call and on noticing her to be in bad condition, he came there and got her admitted in Civil Hospital, Batala. She also alleged that her husband was indulged in some extra marital affair. While alleging that she had been continuously subjected to harassment and cruelty on account of demand of dowry and cash amount by her in-laws, she prayed for taking legal action against the culprits. After registration of FIR, investigation proceedings were initiated. The petitioners were extended benefit of bail. After completion of necessary and usual formalities, *challan* under Section 173 of Cr.P.C. was presented against them in the Court and presently, the trial is going on.

3. The instant petition has been filed on the grounds and it has been argued by their counsel that the petitioners have been falsely implicated in this case. Vague, general and omnibus allegations have been levelled against

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them. No demand was ever raised by the petitioners from the victim. Rather, it was the victim, who wanted to get rid of her husband, who is petitioner No. 1 herein. The allegations of petitioner No. 1 having extra marital affair are patently false. Even petitioner No. 1 had filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights but the victim refused to stay in the company of her husband on one pretext or the other. The trial Court, while framing charges under Sections 498-A, 406, 323 read with Section 34 of IPC, had ignored the fact that no offence is made out against the petitioners as only vague and general allegations have been levelled by the victim, without specifying date, time or month of the occurrences of her having been subjected to harassment and cruelty by the petitioners on account of demand of dowry. It is further argued that there was no medical evidence to prove that the respondent No. 2 was extended beatings by either of the petitioners at any point of time. While submitting that the continuation of criminal proceedings in this case would be abuse of process of law, it is argued by learned counsel for the petitioners that the petition deserves to be allowed, the FIR and the subsequent proceedings in the form of framing charges are liable to be quashed.

4. Learned State counsel, who has advance notice of the petition, on the other hand, has argued that there are serious and specific allegations in the FIR against the petitioners of subjecting the victim to harassment and cruelty on account of demand of dowry. They had even extended severe beatings to her. It is further argued that since charges have already been framed and the trial has commenced, therefore, the veracity of the allegations levelled against the petitioners can be assessed and evaluated by the trial Court after

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appraising the evidence produced before it and no case has been made out to quash the FIR. Therefore, it is argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the petitioners as well as learned State counsel at considerable length and have also perused the material placed on record.

6. At the outset, it will be beneficial to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana vs. Bhajan Lal : 1992 SUPP (1) SCC 335***, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face

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value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

xxx xxx xxx xxx

(c) where the uncontroverted allegations made in the FIR 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;

xxx xxx xxx xxx

(e) 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;

xxx xxx xxx xxx

(g) 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.

7. Reference can further be made to ***Gian Singh vs. State of Punjab : (2012) 10 SCC 303***, wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can also be made to ***Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy and others : (2011) 12 SCC 437***, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant

and not in a situation where a specific remedy is provided by the statute. Reliance can further be placed upon *State of Andhra Pradesh vs. Gourishetty Mahesh and others*, 2010 Criminal Law Journal 3844, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., 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 as that is the function of the trial Court.

8. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In *Dr.Monica Kumar and another vs. State of U.P. and others : (2008) 8 SCC 781*, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice. In *Taramani Parakh vs. State of M.P. and others : 2015 (2) RCR (Criminal) 445*, Hon'ble Supreme Court has held that quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but on an opinion formed prima facie. Where the factual foundation

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for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied, if there is substantial compliance with the requirements of the offence.

9. It is also well settled that if a petition under Section 482 Cr.P.C. has been filed at the stage of investigation, then it is only required to be considered whether a cognizable offence is disclosed or not. However, when the statements of the witnesses are recorded, evidence is collected and the chargesheet is filed after conclusion of investigation/enquiry, the matter stands on a different footing and the Court is required to consider the material/evidence collected through investigation. Even at that stage, the High Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting trial. If in order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof. At this stage, the High Court cannot appreciate the evidence as to whether it can draw its own inference from the contents of the FIR and the material relied on it. The appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Reference in this regard can also be made to the observations made by Hon'ble Supreme Court in *Kaptan Singh vs. State of U.P. and others*, 2021 SCC Online SC 580 and *Dhruvaram Murlidhar Sonar vs. State of Maharashtra* :, (2020) 3 SCC

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(Criminal) 672, wherein Hon'ble Supreme Court has observed that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. Inherent jurisdiction under Section 482 Cr.P.C. though wide is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

10. I have considered the contentions raised by learned counsel for the parties in the wake of above discussed position of law. In view of the arguments raised by the parties, the foremost issue, which in the opinion of this Court requires determination, is whether the allegations made against the petitioners are general and omnibus and are liable to be quashed. On applying the ratio of law as laid down in the above cited cases to the facts and circumstances of the present case, I am of the considered opinion that no case for quashing the FIR or the consequential proceedings arising therefrom has been made out. Respondent No. 2/complainant, in her complaint filed before the police, had levelled specific allegations against the petitioners that on 15.10.2020, on her refusal to bring an amount of Rs. 5 Lakhs from her parents, the accused persons, who are petitioners herein, had badly beaten her. The allegations of her being assaulted at the hands of the petitioners and his other family members had also been levelled. On the basis of these allegations, it cannot be stated that no case for commission of offences punishable under Section 498-A, 406 and 323 of IPC has been made out against the petitioners. More so, charges have been framed and the trial has commenced. Therefore, it would be pre-mature to say that no *prima facie* case is made out against the petitioners and the FIR in question is liable to be quashed.

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11. So far as the challenge to the order dated 25.08.2022, whereby charges under Sections 498-A, 406, 323 and 34 of IPC had been framed against the petitioners is concerned, first of all, the petitioners instead of filing a revision petition have chosen to challenge the same by way of filing a petition under Section 482 of Cr.P.C., thereby not availing the proper remedy as prescribed under law. More so, even otherwise, on perusal of allegations as levelled against them, in the considered opinion of this Court, no ground for interference in the above said order has been made out. It is also mention worthy that there are certain principles which are to be considered at the stage of framing of charge. If the Court feels that the facts emerging from the record taken on their face value disclose existence of all the ingredients constituting the offence alleged, charge must be framed as a duty is cast upon the Court to frame so, if there is prima facie sufficient material on record making out a case for commission of an offence. There is nothing on record to show that the necessary ingredients for commission of offences punishable under Sections 498-A, 406, 323 and 34 of IPC had not been made out against the petitioners. Therefore, no ground has been made out for interfering with the order passed by the trial Court framing charges.

12. Keeping in view the facts and circumstances of the case, this Court finds no ground whatsoever to interfere at this stage for quashing of the FIR as well as consequent proceedings emanating therefrom. The petition is accordingly dismissed. The trial Court is, thus, directed to continue with the trial in accordance with law and on its own merits.

13. It is, however, clarified that no observations made herein above are the reflection on the merits of the case and shall have no bearing on trial. The same are confined for the decision of the present petition only.

30.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>