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123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23257-2024 (O&M)
Date of Decision: 09.05.2024

SUKHWINDER SINGH AND ANOTHER

.....PETITIONERS

Vs.

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Mitul Singh Rana, Advocate,
for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

HARPREET KAUR JEEWAN J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 278 dated 13.09.2023 (Annexure P-1) registered at Police Station Tanda, District Hoshiarpur, under Sections 498-A and 406 of the IPC, along with all subsequent proceedings arising therefrom, including the final report (‘*challan*’) dated 20.10.2023 (Annexure P-2).

2. The petitioners are the father-in-law and the mother-in-law of the first informant. As per the brief facts of the case, the marriage of the son of the petitioners, Sukhjinder Singh and respondent No. 2-first informant was solemnized on 20.03.2013. Out of the said wedlock, a baby boy and a baby girl were born on 15.04.2014 as twins. As per the allegations in the First Information Report, the petitioners along with their son Sukhjinder Singh immediately after the marriage, started harassing the first informant and used to pressurize her to bring money from her parents on the pretext



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that Sukhjinder Singh has to go to U.S.A. However, the first informant denied to fulfill the said demand, she was thrown out of her matrimonial home. The husband of the first informant (son of the petitioners) has gone to America. Upon a complaint given by the complainant in this regard, the present FIR was got registered against the present petitioners and their son Sukhjinder Singh. Since Sukhjinder Singh, husband of respondent No. 2-first informant has already gone abroad, final report ('*challan*') under Section 173 Cr.P.C. was filed only against the present petitioners on 01.02.2024.

3. Learned counsel for the petitioners *inter alia* contends that the present petitioners are the father-in-law and the mother-in-law of respondent No. 2-first informant. The son of the petitioners, Sukhjinder Singh has been living abroad prior to the registration of the present FIR. Petitioner No. 1-Sukhwinder Singh-father-in-law is 50 years old and petitioner No. 2-Rajwant Kaur-mother-in-law is 64 years old. The petitioners have been falsely implicated in the present FIR.

3.1 He further submits that initially in the month of July, 2015, the complainant left the house of the petitioners and she did not return back. Eventually, in November 2015, the father of the complainant came to the petitioners' house and demanded money for settlement and disclosed that the earlier groom had also paid them for settlement. It was for the first time, when the petitioners came to know of the fact that first informant was earlier also married. However, when the matter was not compromised, the son of the petitioners filed a petition bearing No. HMA/669/2019, dated 02.08.2019, under Section 13 of the Hindu Marriage Act, 1955 through the



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petitioners. The present FIR has been filed as a counter-blast. The first informant has got registered the present FIR after six years after leaving her matrimonial house. There is no explanation for such a delay.

4. Reliance has been placed upon the decisions of Hon'ble the Supreme Court in Abhishek vs. State of Madhya Pradesh 2023 LiveLaw (SC)731 and in Achin Gupta vs. State of Haryana and others MANU/SC/0377/2024.

5. Relying upon the aforesaid decisions, it is contended that the proceedings on the basis of the present FIR is a misuse of process of law, as such, liable to be quashed.

6. In view of the facts of the present case, this Court feels that issuance of notice to the respondent would delay the proceedings, as such, issuance of notice to the respondent is dispensed with.

7. However, learned State counsel has informed that the son of the petitioners is in abroad. There are PO proceedings pending against him. The petitioners are pursuing the proceedings on behalf of their son under Section 13 of the Hindu Marriage Act before the learned Family Court. After completing the investigation, final report ('*challan*') under Section 173 Cr.P.C. has also been presented.

8. I have considered the aforesaid contentions.

9. The marriage between the son of the petitioners and respondent No. 2 was solemnized on 20.03.2013. Two children were born out of the wedlock immediately after a period of one year. Admittedly, the husband of respondent No. 2 has gone abroad. As per the contents of the FIR (Annexure



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P-1) after the husband came from Europe, he and his parents, i.e. the present petitioners started pressurizing the first informant to bring money from her parents as the husband of the first informant wanted to go to America. The first informant is alleged to have been thrown out of her matrimonial house for the first time in 2014. The husband of the first informant had then gone to America. It is further alleged that the first informant along with her two minor children is residing at her parental home and the petitioners are harassing her to take divorce from their son.

10. During the course of arguments, learned counsel for the petitioners has informed that the son of the petitioners who is also a co-accused in the present FIR has filed a divorce petition against respondent No. 2. Petitioner No. 1 is attorney holder of his son and the divorce petition has been filed by the co-accused of the petitioners through power of attorney, i.e. through petitioner No. 1. It is further informed the final report ('*challan*') has also been presented against the petitioners. Co-accused of the petitioners qua whom petitioner No. 1 is pursuing divorce petition having been filed against the complainant (respondent No. 2) has not been arrested.

11. The Hon'ble Apex Court has settled the law regarding exercising jurisdiction under Section 482 Cr.P.C. for quashing of FIR. A reference may be made to the law settled in the case of "*State of Haryana and others vs. Ch. Bhajan Lal and Others*"; 1992 AIR SC 604, wherein the following parameters have been given:-

"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and



of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the inherent powers. Under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, through it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

“(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 F.I.R. 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 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;

(4) Where the allegations in the FIR 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.”

12. Further Hon’ble the Apex Court in **Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra** 2021 AIR (SC) 1918 has held that quashing of FIR is an exception rather than an ordinary Rule and the High Court should exercise the powers under Section 482 Code of Criminal Procedure sparingly with circumspection.

13. No doubt, this Court can exercise jurisdiction under Section 482 Cr.P.C and may pass such orders as would be necessary to give an effect to any order under the Code of Criminal Procedure, 1973 or to prevent abuse of process of any Court or otherwise to secure the ends of justice. However, the facts and circumstances of the present case indicate that petitioner No. 1 is pursuing a divorce petition against the first informant on behalf of the husband of the first informant as his power of attorney. At the same time, the



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husband of respondent No. 2 who is also a co-accused of the petitioner in the present FIR is not appearing in the proceedings, as such, final report ('*challan*') has been presented only against the petitioners. It has been further noticed that immediately after the marriage, twins were born who are presently in custody of the first informant. There is nothing on record to suggest that while going abroad, the son of the petitioners made any arrangements financially or otherwise for taking care of two minor children who are being presently looked after by the first informant. Two minor children have been left to their fate, their father had gone abroad, the petitioners are pursuing litigation for breaking the matrimonial ties of their son, who is comfortably sitting abroad, leaving minor children in India. There is no document suggestive of the fact that son of the petitioners ever made proposal to take his wife and minor children to the place, where he is living. Taking care of the needs of one's own minor children are a metric of social justice. Lifting the veil indicates that the petitioners are on the one hand assisting their co-accused, who is violator of leaving his own children to destiny, pushing them to vagrancy; and on the other hand invoking the extra-ordinary jurisdiction of this Court under Section 482 of the Code. A person is under obligation to fulfill his moral duty towards his minor children. The petitioners are assisting such a violator, who has pushed his own children to vagrancy.

14. In such circumstances, the equity is not in the favour of the petitioners who are on one hand pursuing litigation in the absence of their co-accused without rendering any assistance to the minor children who are also the grand-children of the petitioners.



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15. Considering the facts and circumstances of this case, filing of the present petition is rather abuse of process of law. Investigation has been completed. Final report ('*challan*') has been presented. The matter would be adjudicated upon by the trial Court after taking evidence. The case does not fall in any of the categories mentioned in **Bhajan Lal's** case (*supra*), and even the equity is not in favour of the petitioners.

16. The decision relied upon by learned counsel for the petitioners in **Achin Gupta's** case (*supra*) is distinguishable on facts. As per the facts in the said case, the petitioner and the first informant lived together after the marriage and a son was born out of the wedlock who was residing with one of the accused. The distinguishable facts in the said case are that the appellant and his family members were residing in India. The appellant has filed a divorce petition and also a domestic violence case against the first informant. The allegations in the FIR were found to be vague and are general in nature. The appellant had withdrawn the divorce petition as he was having the custody of the child and it was alleged that it was difficult for him to take care of the child while travelling all the way to the city on each and every date of hearing in the said divorce petition. The appellants (husband), filed a domestic violence case against the first informant whereas in the present case both the minor children are in the custody of the first informant. The son of the first informant went abroad after the birth of twin children. Petitioner No. 1 is pursuing the divorce petition on behalf of his son against the first informant.

17. Further, the decision relied upon by learned counsel for the petitioners in **Abhishek vs. State of Madhya Pradesh** 2023



LiveLaw(SC)731, is also not applicable to the facts of the present case as the facts of this case are totally different from the present case.

- 18. Consequently, the present petition stands dismissed.
- 19. Pending miscellaneous application (s), if any, shall also stand disposed of.

May 09, 2024 (HARPREET KAUR JEEWAN)
nitin JUDGE

Whether Speaking	Yes
Whether reportable	No