202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved On: 16.07.2024
Pronounced On: 18.07.2024

1. CRM-M-4778-2018 (O&M)

KRISHNA MANGLA

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

2. CRM-M-48602-2017 (O&M)

SURAJ BAHADUR MANGLA

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

3. CRM-M-33548-2018 (O&M)

SUNIL GUPTA

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Sullar, Advocate and
Mr. M.S. Baknour, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Sushant Mahajan, Advocate for
Mr. Aman Kashyap, Advocate
for respondent No. 2.

****

HARPREET SINGH BRAR J.

CRM-M-48602-2017

This petition has been preferred under Section 482 Cr.P.C. seeking quashing of the impugned order dated 10.10.2017 (Annexure P-6) passed by Punjab State Commission for NRIs, Chandigarh.

As per the order dated 29.08.2018 passed by this Court, the petitioner- Suraj Bahadur Mangla has since expired.

Consequently, the proceedings qua him stand abated.

CRM-M-4778-2018 & CRM-M-33548-2018

1. This common order of mine shall dispose of the above-mentioned petitions which have been preferred under Section 482 Cr.P.C. seeking quashing of the FIR No.15 dated 13.03.2017 registered under Sections 498-A of IPC at Police Station- Women Patiala, District Patiala, and all subsequent proceedings arising therefrom.

For the sake of brevity, facts are being culled out from CRM-M-4778-2018.

2. Succinctly, the facts are that the complainant made a complaint before the concerned police, wherein, it was alleged that marriage of the complainant was solemnized with Sunil Gupta on 21.04.2007. At the time of their marriage, the parents of the complainant gave Rs.06,25,000/- as dowry amount to Sunil Gupta (husband), Krishna Mangla (mother-in-law) and Suraj Bahadur Mangla (father-in-law). The aforesaid amount was utilized by the accused persons to buy a white Santro car. The ornaments worth Rs.10 lacs given to the complainant were also taken into possession by her mother-in-law immediately after the marriage. The accused also made continuous demands for money from the complainant and upon her refusal, they mistreated her. The mother-in-law of the complainant made her son transfer his entire salary into her account due to which the complainant was forced to spend her entire earnings on the daily household needs. Since the beginning of her marriage, the

complainant was treated like a slave and was not even allowed to meet her family and friends. As a consequence of her refusal to meet their dowry demand, the complainant was mercilessly beaten by the accused on several occasions and was threatened with dire consequences. In 2008, the complainant gave birth to a son and even after that the accused did not mend their ways. The accused further demanded Rs. 1 lac from the parents of the complainant when they came to meet her in her matrimonial house after the birth of her son. When they refused to meet the aforesaid demand, the accused took the complainant to a separate room and threatened to kill her and her son due to which she unwillingly accepted their demand. Along with the aforesaid amount of Rs.1 lac, a big Samsung TV and 2 gold chains were given to the accused, which were misappropriated by them. In June 2009, husband of the complainant went to United Kingdom (UK) and the complainant along with her son remained at the matrimonial home and continued to face harassment at the hands of her in-laws. One day, when the complainant was alone at home, her father-in-law got intoxicated on alcohol and made vulgar comments qua her physical appearance due to which she had to lock herself in a room. Further, she was threatened by her mother-in-law to keep silent about the entire incident. Then in March 2011, the husband of the complainant visited India and during that period that she conceived her second child. When the complainant revealed about her second pregnancy to her husband who had flown back to UK, she was abused on the phone and was told to get an abortion. Subsequently, she was forcibly taken to a gynaecologist by her in-laws to get an abortion done. Despite several requests from the complainant, her husband showed no willingness to call her to UK. So, she requested her employer for a deputation in UK and in October, 2012 she got an approval for a project and went to UK along with her son. When the complainant went to see her husband, she found out that he was living with another woman for the past 6 months and when she confronted him, he beat her up mercilessly. Even in UK, her husband forced her to part with her entire earnings as a payment towards the dowry demand. As the work project of the complainant finished, she returned back to India along with her son in November, 2013 and started living with her in-laws. In March, 2014, the husband of the complainant agreed to call her and the child to UK and she went there, she was made to do house hold work and was abused and beaten in front of her son. In October, 2014, her husband left her and the son and started living with another woman. Subsequently, the husband of the complainant kept on physically and mentally harassing her in order to force her into a mutual divorce. On the pretext of a family trip, the complainant was brought to India in October 2014 and she abused, threatened, and beaten by the accused to force her into a mutual divorce. Then the complainant and her husband along with their son all flew back to UK but the behaviour of her husband worsened to such an extent that she and her son were given severe beatings. Fearing for her as well as her son's life, the complainant agreed for a divorce and signed a divorce petition in March, 2015. But even after signing the divorce papers, the complainant continued to face harassment by her husband and ultimately filed a complaint against him before UK police. In August, 2016 the complainant came back to India along with her son but kept on getting threatening calls from the accused. On the basis of the aforesaid complaint, the FIR (supra) came to be registered. Subsequently, the petitioners Krishna Mangla (mother-in-law) and Suraj

Bahadur Mangla (father-in-law) were arrested on 08.05.2017 and released on bail 22.05.2017 by learned Additional Sessions Judge, Patiala. Since Sunil Gupta-husband was residing in UK, he could not be arrested.

3. Learned counsel for the petitioners *inter alia* contends that the FIR in the present case has been lodged by the complainant-wife in a vexatious manner after almost 2 years after she obtained a divorce decree (Annexure P-4) by way of one time settlement from a Family Court in UK. No such complaint was ever moved by the complainant-wife or her relatives against the petitioners despite her allegations that she was harassed from the very beginning of her marriage by them. On the complaint moved by the wife on 30.11.2016 before Senior Superintendent of Police, Patiala, an inquiry was conducted by Deputy Superintendent of Police, Headquarter Patiala and in his inquiry report (Annexure P-6) every a single allegation levelled by the complainant was found to be unsubstantiated. It is further contended that the allegations levelled by the complainant are vague and general in nature and therefore no case is made out against the petitioners.

4. Learned counsel for respondent no.2 contends at the outset that bare reading of the FIR (supra) shows that there are specific allegations qua the present petitioners and given the serious nature of the allegations, any interference by this Court is not warranted in the case at hand. In the order dated 10.10.2017 passed by Punjab State Commission for NRIs, Chandigarh, recommendation has been made to the concerned police to add the offence under Section 406 IPC in the FIR (supra). Although, the aforesaid order has been challenged by Suraj Bahadur Mangla (father-in-law) in CRM-M-48602-2017, he has passed away during the pendency of the said petition rendering it

infructuous. He further contends that Sunil Gupta-husband obtained the decree of dissolution of marriage and clean break from a Family Court in UK by fraud and coercion and the said decree is neither recognized by law in India nor enforceable in India. The delay in lodging the FIR is justified given the social compulsions of women in the country.

5. Learned State counsel has brought into light the submissions made in the reply dated 11.05.2018 filed by way of an affidavit of Satpal Sharma, PPS, Deputy Superintendent of Police (Headquarters), Patiala, wherein, it is stated that the initial inquiry report No.345 dated 10.11.2016 submitted by DSP (HQ), Patiala was not accepted by SSP, Patiala and the application moved by the complainant-wife was sent to SP (HQ), Patiala for re-verification and another report No.607 dated 16.02.2017 was submitted therein. In the aforesaid report, allegations levelled by the complainant were found to be duly substantiated.

6. I have heard the learned counsel for the parties and perused the record of the case with their able assistance. It transpires that the FIR (supra) has been lodged by the complainant almost after 2 years from the date of divorce decree granted by the Family Court in UK and after 10 years from the date of marriage. Although the complainant has alleged that she was mentally and physically abused by the petitioners right from the early days into her marriage in 2007, it is astounding that neither the complainant nor her relatives ever approached the concerned authorities to seek justice during the entire period of her marriage, i.e., from 21.04.2007 to 02.09.2015 and only found it appropriate to knock at the door of the concerned police 2 years after she had parted her ways from the accused. Out of 8 years of wedlock, the complainant

admittedly stayed at her matrimonial house in India for about 5 years where she was allegedly subjected to utmost cruelty and was also forced to abort her second child by the accused, but she never sought help from the local authorities in India despite being a well-educated woman. A perusal of affidavit dated 11.05.2018 of Satpal Sharma, PPS, Deputy Superintendent of Police (Headquarters), Patiala reveals that after her marriage the complainant went to Singapore to work for an year and returned back to her matrimonial house in October 2011. It is bemusing that the complainant went to Singapore in 2010-11 after she was continuously harassed, forced to undergo an abortion, and tortured by her in-laws since her marriage in 2007 and still returned to her matrimonial house without taking a legal recourse first. Furthermore, a careful perusal of the FIR (supra) shows that allegations levelled by the complainant are omnibus in nature and devoid of any specificity qua the time, date or details of the alleged offences.

7. It is trite law that High Court should not go into disputed questions of fact while exercising it 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.*
>
> *xxxxxx xxxxxx xxxxxx*
>
> *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.

xxxxxx xxxxxx xxxxxx

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."***

xxxxxx xxxxxx xxxxxx

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."*

8. 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.*
>
> *xxx xxx xxx*
>
> *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.*

9. The objection raised by the learned counsel for respondent no.2 qua validity of the divorce decree granted by Family Court in U.K. on the

ground that the same was obtained by fraud and coercion by husband-Sunil Gupta is untenable. The husband as well as the wife attended and participated in the proceedings before the foreign Court and got their marriage dissolved on 02.09.2015 by way of one-time settlement between them. Admittedly, the complainant-wife approached U.K. police against Sunil Gupta due to harassment even after their divorce before finally returning back to India in August of 2016. Before returning to India, the complainant had ample time and opportunities to challenge the divorce decree if she was, in any way, coerced by her husband but she failed to do so. The Hon'ble Supreme Court in the case ***Alcon Electronics (P) Ltd. v. Celem SA of FOS 34320 Roujan (2017) 2 SCC 253*** recorded the following: -

> *"The principles of comity of nation demand us to respect the order of English Court. Even in regard to an interlocutory order, Indian courts have to give due weight to such order unless it falls under any of the exceptions under Section 13 CPC."*

10. After taking into consideration that the respondent-wife obtained the aforesaid divorce decree in furtherance of a one-time settlement to which both concerned parties are signatories, she cannot be allowed to continue with such vexatious litigation in pursuance of a vendetta. Pertinently, a two Judge bench of the Hon'ble Supreme Court in ***Ruchi Agarwal vs. Amit Kumar Agarwal 2004(4) R.C.R(Criminal) 949****,* speaking through Justice Umesh C. Banerjee, opined as follows:

> *"6. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13B of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High*

Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

7. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where Section 125 Criminal Procedure Code proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents."

Further, a Co-ordinate bench of this Court in ***Krishan Singh and Others vs. State of Punjab and Another 2020(4) R.C.R. (Criminal) 327***, speaking through Justice Jaishree Thakur, made the following observations:

*"7. The judgment as rendered in **Ruchi Agarwal (supra)** has subsequently been followed in **Mohd. Shamim vs. Smt. Nahid Begum, 2005 (1) RCR (Criminal) 697** and **Shlok Bhardwaj Vs. Runika Bhardwaj and others, 2015 (2) SCC 721**, wherein it has been held that after the matter has been settled between the parties the wife is estopped from continuing criminal proceedings. The judgment of **Mohd. Shamim vs. Smt. Nahid Begum(supra)** has subsequently been followed by this Court in **'Nirmal Sachdeva vs. State of Haryana and another, 2008 (27) RCR (Criminal)153'**, **'Kamal Kishore and others vs. State of Punjab and another, 2006 (2) RCR (Criminal) 342'** , and **'Naveen and others vs. State of Haryana and another 2019 Crl. LJ 1004'** in CRM-*

*M-17367-2018 decided on 06.12.2018 and **'Ram Lal and others Vs. State of Haryana and another, 2008(2) RCR (Criminal) 823'**."*(emphasis added)

11. Reverting back to the facts of the case at hand, it transpires that upon the complaint made by respondent no.2-wife, the matter was inquired into by the jurisdictional police and consequently an inquiry report dated 10.11.2016 was submitted by DSP (HQ), Patiala to by SSP, Patiala, wherein, the allegations levelled by her were found to be sans veracity and the said complaint was recommended to be consigned to the record room. Although, the aforesaid report was not accepted by SSP, Patiala, and a subsequent inquiry was ordered by him in which the findings recorded were obverse to the ones made initially, no justifiable reason for a second inquiry has been presented before this Court.

12. After paying heed to the facts and circumstances of the present case and taking into consideration the ratio of law laid down in ***Achin Gupta (supra),*** this Court finds sufficient reason to invoke its inherent jurisdiction. Accordingly, the above-mentioned petitions are disposed of in the following terms: -

i. In CRM-M-48602-2017 petitioner Suraj Bahadur Mangla has passed away. Therefore, proceedings qua him stand abated and the aforesaid petition is disposed of accordingly.

ii. The petitions bearing No. CRM-M-4778-2018 & CRM-M-33548-2018 are allowed. Hence, the FIR No.15 dated 13.03.2017 registered under Sections 498-A of IPC at Police Station- Women Patiala, District Patiala as well as the subsequent proceedings arising therefrom are hereby quashed.

13. Pending CRM(s), if any, are also disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

Reserved on : 16.07.202024
Pronounced on : 18.07.2024

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No