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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

CRM-M-23887-2024

Rupinder Kaur

.....Petitioner

versus

State of Punjab and another

..... Respondents

2.

CRM-M-23908-2024

Kulwant Kaur and another

....Petitioners

versus

State of Punjab and another

....Respondents

Date of decision: 16.10.2024

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. G.B.S. Dhillon, Advocate
for the petitioners.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J.

1. This order will dispose of above-mentioned two petitions as the same have arisen out of a common FIR.
2. Instant petitions have been filed under Section 482 Cr.P.C. praying for quashing of FIR No.170 dated 19.10.2007, under Sections 406, 420 and 120-B of IPC, registered at Police Station Division No.2, Police Commissionerate Jalandhar, District Jalandhar.
3. As submitted by counsel for the petitioners that the petitioners have been clandestinely prosecuted in the impugned FIR. He submits that the FIR was registered against the petitioners for the entire dispute which has taken place in United States of America. He submits that as the alleged offence has taken place in USA hence, the investigating agencies in India

have no territorial jurisdiction by virtue of Section 4 of the Indian Penal Code and Section 188 of the Cr.P.C. It is submitted that petitioner-Rupinder Kaur was married with Harkaramvir Singh son of the complainant on 04.07.2007 and thereafter, they went to USA on 20.07.2007. He submits that on reaching USA on 20.07.2007 at Dulles International Airport, petitioner-Rupinder Kaur lodged the complaint with the Customs and Border Protection “CBP” stating therein that her husband physically abused her and he had married her only to obtain residency in USA. He thus, submits that in order to pressurize the petitioner and her family members, complainant-Balkar Singh, who is father-in-law of the petitioner, had lodged the impugned FIR on false and frivolous allegations here in India. He submits that Harkaramvir Singh, husband of petitioner-Rupinder Kaur filed divorce proceedings in the Supreme Court at the Courthouse, New York County. Resultantly, the marriage was dissolved and the Court granted *ex parte* divorce to him vide order dated 09.05.2012 passed by the Supreme Court at the Courthouse, New York County. He submits that the co-accused in the impugned FIR i.e. Piara Singh and Satwant Kaur who are grandfather and grandmother of the petitioner have already approached this Court by way of filing quashing of the FIR vide CRM-M-27326-2008 and CRM-M-9977-2011. This Court vide order dated 03.02.2011 and order dated 07.08.2013 quashed the FIR qua both of them. It is submitted that though the petitioner was earlier declared as Proclaimed Offender by the learned Judicial Magistrate Ist Class on 24.05.2010 however, vide order dated 03.05.2024 passed by this Court, the Proclaimed Offender order dated 24.05.2010 was stayed and the petitioner was directed to surrender before the Court. Resultantly, the petitioner surrendered before the Court and she has been released on bail by the Court.

It is submitted that Kulwant Kaur and Jatinder Singh, mother and brother of

the petitioner-Rupinder Kaur are also residing in USA. It is submitted that no cause of action had accrued in India for taking the cognizance of the offence and hence, this Court had already quashed the FIR qua co-accused namely, Piara Singh and Satwant Kaur. He relies upon the judgment titled as *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335* and thus, submits that the prosecution of the petitioners being totally an abuse of the process of the Court, the FIR deserves to be quashed qua the petitioners as well.

4. Learned State counsel though has opposed the submissions made by counsel for the petitioners however, he has also submitted that on the similar set of contentions, the FIR qua co-accused has been quashed by this Court vide orders dated 03.02.2011 and 07.08.2013 .

5. Heard. On hearing counsel for the parties and perusing the record, it is deciphered that petitioner-Rupinder Kaur was married with Harkaramvir Singh on 04.07.2007 and thereafter, they shifted to USA. The relationship between both of them went bitter and hence, Rupinder Kaur filed the complaint against her husband-Harkaramvir Singh. This marriage was finally dissolved by decree of divorce passed by the Courthouse, New York County. As apparent from the record, the petitioners are in USA. The FIR qua the co-accused have already been quashed by this Court vide order dated 03.02.2011 and 07.08.2013 .

The Hon'ble Supreme Court in *Bhajan Lal's case (supra)* has held as under:-

102. 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 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above,

we give 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, though 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 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 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.

6. On reaching the USA, complaint has been filed by Rupinder Kaur. Thereafter, as a counterblast, the present FIR was lodged here in India. As submitted by learned counsel for the petitioners that the territorial jurisdiction of the Courts at India to try the present FIR is barred when the cause of action if any had accrued in USA.

7. In the overall facts and circumstances of the case, this Court finds the prosecution of the petitioners in the impugned FIR No.170 dated 19.10.2007, under Sections 406, 420 and 120-B of IPC, registered at Police Station Division No.2, Police Commissionerate Jalandhar, District Jalandhar is abuse of the process of the Court and the same is hereby quashed.

8. Both the petitions are hereby allowed.

16.10.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No