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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24087-2024 (O&M)
Date of decision: 28.08.2024

Sanjay Kumar Panday and others

...Petitioners

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR JUSTICE HARPREET SINGH BRAR

Present: Mr. Arnav Kumar, Advocate
for the petitioners.

HARPREET SINGH BRAR, J.

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.98 dated 17.04.2018 under Sections 354, 498-A, 406, 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Yamuna Nagar Sadar and all the subsequent proceedings arising therefrom.
2. Brief facts of the case are that FIR (*supra*) was registered at the instance of respondent No.2 on the allegations that her marriage with petitioner No.1 was solemnized on 27.11.2015 according to Hindu rites and rituals and her parents spent around Rs.20.00 lacs on the marriage. After

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some time of the marriage, her in-laws started harassing her on account of bringing less dowry and they called the dowry items of poor quality. The petitioners demanded I-20 car and Rs.5.00 lacs in cash from her parents, but when she refused to do so, she was abused and beaten up badly by her husband-petitioner No.1 and other family members. She kept tolerating all the atrocities at the hands of accused persons with the hope that one day, all will be fine, but there was no change in their behaviour and instead, they put more pressure on her to bring a car and Rs.5.00 lacs in cash and gave beatings to her. Her parents tried to convince the accused persons not to torture the complainant, but there was no improvement in their behaviour. In April, 2016, after giving beatings, she was shunted out of the matrimonial home and when she informed about this incident to her parents, they along with her brother and other family members came and her father reported the matter to Police Station Phase-1, Mohali. The accused persons refused to keep her in the matrimonial house and said that petitioner No.1 is highly educated and she is less educated and they will perform second marriage of petitioner No.1 with a highly educated girl, from there they would get car and lot of cash. Due to this, her parents took her to Yamuna Nagar and gave an application to the Superintendent of Police, Yamuna Nagar against the accused persons. When appeared in Women Police Station Yamuna Nagar and held a Panchayat, the petitioners apologized and assured to take care of her and not to harass her again and

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not to demand any kind of dowry and in this regard, a compromise was effected on 22.04.2016. Thereafter, the petitioners took her to Mohali and the said application was withdrawn in view of compromise. For some days, the behaviour of the petitioners remained good, but they again started harassing her and demanded I-20 car and Rs.5.00 lacs in cash and said that if she failed to bring the same, they would perform second marriage of petitioner No.1 with highly educated girl. During this period, brother-in-law of the petitioner, namely Rajan, kept evil eye on her and whenever he found her alone, he used to harass her and to do obscene acts with her. When she told about the same to her husband and other accused, they threatened her to remain silent and said that if she want to stay in the matrimonial home, she would have to bear everything. The complainant impregnated thrice and all the occasions, her brother-in-law through her husband gave unbearable medicines, due to which she suffered miscarriage. The complainant continued to suffer physical and mental harassment at the hands of accused and even she was not given proper food. The accused did not let her to go to her parents and even did not let her to call them.

3. It is further alleged that in February, 2017, the accused tried to kill her by burning several times and much water had flown on 15.03.2017, when all the accused persons, after removing her ear and nose ornaments, brutally beaten her up and thrown her out of the house in three clothes. Somehow she called to her brother Vikram, who took her to her mother's

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house in Yamuna Nagar and on 21.04.2017, she submitted a complaint against the accused to the Superintendent of Police, Yamuna Nagar, on the basis of which, FIR No.162 dated 25.07.2017 under Sections 498-A, 294, 354, 420, 506, 504 of IPC was registered at Police Station Sadar Yamuna Nagar against the accused persons and they again apologized and assured to keep her properly and asked her to withdraw the case. On this, she and her parents got caught up in the smooth talks of the accused and she compromised the matter in the panchayat and compromise was written between petitioner No.1 and her and even petitioner No.1 also gave an affidavit. After living for some days in her matrimonial home peacefully, the accused said that they had compromised the matter only to avoid the police case and again demanded the car and cash amount of Rs.5.00 lacs. Thereafter, her brother-in-law became more courageous and he did more obscene acts with her and forced her to live in a relationship with him. When she informed to other accused, they threatened to kill her, if she disclosed about this to anyone. One day, she gathered courage and told her brother on Whatsapp about the beatings given by the accused and asked him to come soon. On coming to know about this, the accused beaten her up badly and locked her in a room for the whole night. On 08.01.2018, after informing to the police by her father, she was freed from the clutches of the accused and her medical was got conducted regarding the injuries. She stated that all the dowry articles and istridhan are with the accused and

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despite her asking, they did not give to her and they are misusing the same.

On the basis of these allegations, FIR (*supra*) was registered.

4. Learned counsel for the petitioners, *inter alia*, contends that no specific allegations are made against the petitioners and only vague and omnibus allegations have been levelled. On the same set of allegations, earlier FIR No.162 (*supra*) was registered and thereafter, a compromise was effected between the parties, on the basis of which, cancellation report was submitted and the same was accepted by the jurisdictional Court on 10.10.2017. After four months, another complaint on the same set of allegations was given against the petitioners, in which vague allegations of cruelty have been levelled. Learned counsel for the petitioners relies upon a judgment of the Hon'ble Supreme Court in the case of ***Achin Gupta Vs. State of Haryana and anr., 2024(2) RCR (Crl.) 880*** and a judgment passed by the Coordinate Bench of this Court in ***Mahinder Kaur Vs. State of Punjab and another, CRM-M-60320-2022, decided on 15.03.2024***, to contend that in the present case also, no specific date or month has been given with regard to harassment at the hands of the petitioners.

5. *Per contra*, learned State counsel appears on advance notice and submits that in the earlier FIR No.162, the petitioners were not acquitted after full-fledged trial; rather cancellation report was submitted, as the matrimonial dispute between the parties was resolved amicably and the petitioners agreed to keep the complainant in her matrimonial home. The



petitioners are husband and parents-in-law of the complainant and it is not a case that parents-in-law are living separately. They all lived in a shared household and there are serious and specific allegations against the petitioners, which are matter of trial. The trial cannot be suffocated at this stage without affording an opportunity to the complainant and the prosecution to lead the evidence.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no force in the arguments raised by learned counsel for the petitioners. The probable defence set up by the petitioners in the present petition cannot be appreciated in a petition under Section 482 Cr.P.C., as it is a matter of evidence. It is settled law that disputed questions of fact can only be adjudicated after the parties have duly adduced their evidence. The High Court, in exercise of its inherent powers under Section 482 Cr.P.C. is obligated to make a just and equitable choice and cannot go beyond its ambit to evaluate the truthfulness of the allegations or the veracity of the defence, however, convincing it might seem. Any such attempt would be impermissible in law, as it would amount to giving finality to the accusations, even before the prosecution is allowed to adduce evidence to substantiate the same.

7. A two Judge Bench of the Hon'ble Supreme Court examined this issue in *Rathish Babu Unnikrishnan Vs. State (Govt. of NCT of*



Delhi) and another, 2022 SCC Online SC 513 and speaking through Justice Hrishikesh Roy, the following was observed:-

"17. The consequences of scuttling the criminal process at a pretrial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e, the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption."

8. A two Judge Bench of the Hon'ble Supreme Court in ***HMT Watches Ltd Vs. M.A. Abida, (2015) 11 SCC 776***, speaking through Justice Dipak Misra, has held as under:

"10..... Whether the cheques were given as security or not, or whether there was outstanding liability or not is a question of fact which could have been determined only by the trial court after recording evidence of the parties. In our opinion, the High Court should not have expressed its view on the disputed questions of fact in a petition under section 482 of the Code of Criminal Procedure, to come to a conclusion that the offence is not made out. The High Court has erred in law in going into the factual aspects of the matter which were not admitted



between the parties."

9. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Sampelly Satyanarayana Rao Vs. Indian Renewable Energy Development Agency Limited, (2016) 10 SCC 458***, speaking through Justice Adarsh Kumar Goel, made the following observations:-

"17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint. The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact."

10. Keeping in view the aforesaid facts and circumstances of the case, present petition is dismissed being devoid of merit.

11. All the pending miscellaneous application(s), if any, shall stand disposed of.

12. Needless to say that nothing observed in this order shall be construed as an expression of opinion by this Court on the merits of the case, lest it may prejudice the outcome of the trial.

[HARPREET SINGH BRAR]
JUDGE

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