



109

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24709-2024 (O&M)
Date of Decision: 17.05.2024

Anil Kumar

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naveen Kaushik, Advocate (legal aid counsel)
for the petitioner.

HARPREET SINGH BRAR, J.(ORAL)

1. The present petition is preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking quashing of FIR No.53 dated 23.05.2023 under Sections 323, 34, 406, 498-A, 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Women Narnaul, Mahendragarh and all the subsequent proceedings emanating therefrom.
2. Briefly, the facts are that the marriage between the petitioner and respondent No.2 was solemnized on 03.04.2019 according to Sikh rites and rituals. Respondent No.2 was constantly harassed for not bringing a car in dowry. The petitioner and his family pressurized respondent No.2 to ask for a



Scorpio car and Rs.5,00,000/- in cash from her father. The couple resided in Mumbai, owing to the petitioner's job, while her in-laws stayed in Delhi. They visited her in-laws house on their first Diwali, however, respondent No.2 was given beatings on that day and two days after it as well. Respondent No.2 was taken to the hospital where the petitioner forced her to lie that she sustained the injuries due to a fall. On 02.09.2022, the petitioner called the neighbours and insulted respondent No.2 in front of them. Later, she was beaten and locked in the room where she was not given any food. Somehow, respondent No.2 managed to escape and returned to her paternal home on 03.09.2022. The family of the petitioner asked her to return only if she can fulfill their dowry demands.

3. Learned counsel for petitioner, *inter alia*, contends that the petitioner and his family were issued notice under Section 41-A of Cr.P.C. and made to sit in the police station for the whole day. They were arrested later in the day. Respondent No.2 and her family demanded money from the petitioner, which he transferred in order to deter her from harassing his family, as decipherable from the account statement of the petitioner (Annexure P-5). Furthermore, the petitioner was in Mumbai on the day of Diwali, when respondent No.2 alleged to be beaten. Respondent No.2 has also filed a complaint under Protection of Women from Domestic Violence Act, 2005, however, a comparison of the same with the FIR (*supra*) shows variance in the list of jewellery items, expenses made on the wedding and the date of her



leaving the matrimonial home. Learned counsel contends that generic allegations have been leveled against the petitioner and no overt act has been attributed to him. Moreover, two neighbours have tendered the affidavits dated 31.05.2023 (Annexures P-7 and P-8) denying the allegations of any domestic violence against respondent No.2.

4. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, this Court does not find it proper to adjudicate upon the disputed questions of fact, while the matter is pending consideration before learned Court below. The matter requires to be adjudicated by learned trial Court on the basis of the evidence adduced by the parties and the probable defence, as set up by the petitioner, cannot be gone into at this stage. A two Judge Bench of the Hon'ble Supreme Court in ***HMT Watches Limited Vs. M.A. Abida, (2015) 11 SCC 776*** has held that inherent powers under Section 482 of Cr.P.C. cannot be extended to determine the disputed questions of fact. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

5. A two Judge Bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT), 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:



“17. The consequences of scuttling the criminal process at a pre-trial 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.”

6. Accordingly, present petition is dismissed.
7. All the pending miscellaneous application(s), if any, shall also stand disposed of.
8. However, nothing observed herein shall be construed as expression of an opinion by this Court, lest it may prejudice the trial. Learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

[HARPREET SINGH BRAR]
JUDGE

17.05.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No