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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-4974-2018 (O&M)  
Date of decision: 01.08.2024

Gurpreet Kaur and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shiv Charan, Advocate for  
Mr. Vaibhav Narang, Advocate  
for the petitioners.

Mr. Rishabh Singla, AAG Punjab.

Mr. Raghav Soni, Advocate  
for respondent No.2.

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HARPREET SINGH BRAR J. (ORAL)

1. The present petition is the second petition preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking quashing of FIR No.140 dated 02.09.2016 under Sections 498-A, 406, 506 of the Indian Penal Code 1860 (for short 'IPC'), registered at Police Station Sultanpur Lodhi, Kapurthala and all subsequent proceedings arising therefrom.
2. Briefly, the facts are that FIR (*supra*) had been lodged by respondent No.2-complainant, who is the father of the sister-in-law of the

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petitioners, against her husband and four other members of her in-laws family including the present petitioners, who are unmarried sisters-in-law of the complainant. It was alleged by the complainant that marriage of his daughter was solemnized with brother of the petitioners on 21.02.2008. At the time of marriage, each of the petitioners was given gold ear rings weighing  $\frac{1}{2}$  tola apart from various other gold ornaments, which were given to other family members by the complainant. Further, various dowry articles like car, bed, sofa, dining table, fridge, air conditioner, washing machine, almirah utensils, beddings were also given to the accused. After one year of her marriage, the daughter of the complainant disclosed to him that she was being harassed and forced to bring more dowry including Rs.5.00 lacs by her husband. When the accused, including the petitioners, kept on harassing daughter of the complainant, he gave a sum of Rs.2.00 lacs by borrowing it from his sister. But the accused refused to mend their ways. Then, the complainant brought his daughter back to her parental home in December 2013. After his daughter gave birth to a male child on 13.08.2014, the accused came to see the child and again demanded Rs.5.00 lacs for taking his daughter back to the matrimonial home. Subsequently, the complainant gave a cheque of Rs.3.00 lacs drawn upon his bank account with HDFC Bank. The accused still refused to take his daughter back and thereafter, the complainant took legal recourse. Consequently, the accused returned Rs.1,50,000/- to the complainant, but failed to return Rs.2.00 lacs cash and Rs.75,000/-, which he had given on

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different occasions. It was further alleged that during those five years, when daughter of the complainant resided in her matrimonial home, she was not given any maintenance, which forced her to work in a boutique. After two years of his daughter living with him in the parental home, the complainant went along with his relative to the house of the accused in August 2015, but he was told that husband of her daughter had been disinherited and sent somewhere else. It was also alleged by the complainant that the accused threatened to kill his daughter and even misappropriated the dowry articles.

3. Learned counsel for the petitioners, *inter alia*, contends that the allegations levelled against the petitioners, who are unmarried sisters-in-law of daughter of the complainant, are omnibus and vague. He further submits that the main accused-husband and mother-in-law have been acquitted by learned trial Court vide judgement dated 15.02.2024. It is further contended that the petitioners themselves were humiliated and abused by their brother and their sister-in-law, i.e., daughter of the complainant, due to which their parents were forced to disinherit their brother. The petitioners had even moved multiple representations (Annexures P-5 & 6) before the concerned police against their brother and sister-in-law. Further, the complainant moved the complaint two years after his daughter had left her matrimonial home and all the gift articles have been returned to the complainant as corroborated by the recovery memo appended as Annexure P-10.

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4. Learned counsel for respondent No.2-complainant contends at the outset that there are specific allegations qua the present petitioners in the instant FIR and given the serious nature of the allegations, any interference by this Court is not warranted at this stage. He also argues that as per the settled law, jurisdiction of this Court under Section 482 Cr.P.C. cannot be invoked in a routine manner.

5. Learned State counsel submits that final report has been presented against the petitioners before learned trial Court. Further, specific allegations have been levelled by respondent No.2 against the petitioners and any averments made by the petitioners are a matter of trial.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the main accused-husband and mother-in-law have been duly acquitted by learned trial Court. Moreover, the allegations against the petitioners lack specificity and are general and vague and the fact that respondent No.2 waited for two years before taking any legal recourse, leads this Court to draw inference against his stance. It is trite law that the High Court should not go into disputed questions of fact, while exercising its inherent powers under Cr.P.C., 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-Judges Bench of the

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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 Sections 323, 406, 498A, 506 of IPC on the grounds that allegations lacked specificity and the FIR was vexatiously registered two 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.*

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*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*

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*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.*

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*(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.*

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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.”**

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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,*

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with due care and circumspection, to try and read between the lines.”

7. Similarly, a three-Judges Bench of the Hon’ble Supreme Court in ***Abhishek Vs. State of Madhya Pradesh, 2023(4) R.C.R.(Criminal) 239*** quashed the FIR under Section 498-A of 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 of IPC 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*

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*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.*

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*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.*

8. Pertinently, a two-Judge Bench of the Hon'ble Supreme Court in **Preeti Gupta Vs. State of Jharkhand**, (2010) 7 SCC 667 quashed the complainant against the sister-in-law of the complainant noting that the sole purpose of filing the complaint was to humiliate her and allowing criminal prosecution to continue would amount to an abuse of process of law. Speaking through Justice Dalveer Bhandari, the following was observed:

*"34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.*

*35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law.*

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*It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”*

9. Time and again, the Courts have highlighted the tendency of roping in all and sundry members of the husband’s family in the cases filed under Section 498-A of IPC. Recently, a two-Judge Bench the Hon’ble Supreme Court in ***Mahalakshmi and others Vs. State of Karnataka, Criminal Appeal No.494/2023*** decided on 30.11.2023 quashed the criminal proceedings under Section 498-A of IPC against the husband’s sisters and cousins and observed that if the allegations are not serious and substantiated and there is no clear evidence of accused’s involvement in the complainant’s marital life, they cannot be implicated under Section 498-A of IPC.

10. As an upshot of the above, this petition is allowed and consequently, FIR No.140 dated 02.09.2016 under Sections 498-A, 406, 506 of IPC, registered at Police Station Sultanpur Lodhi, Kapurthala and all subsequent proceedings arising therefrom are hereby quashed qua the petitioners.

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

[ HARPREET SINGH BRAR ]  
JUDGE

01.08.2024  
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No