

CRM-M-34513-2023
Date of decision: 10th April, 2024

...Petitioner(s)

Versus

...Respondent(s)

Present: Ms. Shikha Khullar, Advocate for the petitioner.
Mr. Arjun Lakhanpal, Addl. A.G. Haryana.

The instant petition has been filed by the petitioner seeking quashing of FIR No. 429/22 dated 18.05.2022 registered under Sections 498-A, 323, 406, 506 read with Section 34 of Indian Penal Code, 1860 (for short 'IPC') at Police Station Azad Nagar, Hisar, Haryana as well as chargesheet filed in the same and the proceedings having subsequently emanated therefrom.

2. Brief facts of the case is that relevant for the purpose of disposal of this petition are that the aforementioned FIR had been registered on the basis of a written complaint filed by the complainant Anita Devi alleging therein that she got married with the present petitioner on 20.02.2018. Huge amount of money was spent by her parents at the time of marriage ceremony and several dowry articles including furniture, clothing, household articles and ornaments were handed over to the petitioner and his family members.

She alleged that just next day after her marriage, the petitioner and his family members started taunting the complainant on account of bringing insufficient dowry and by raising demand of a sum of Rs.5,00,000/- and an alto car. The complainant pleaded with them that as her parents had already spent money beyond their means, therefore, the demands so raised could not be fulfilled but on hearing this, the accused threatened the complainant that she would be allowed to live in her matrimonial house only if their demands were met with. The complainant told about this fact to her parents. Her parents assured the petitioner to keep on giving something or other to him regularly as they could not fulfill his demands in one go and at this, the petitioner had assured to behave properly with the complainant. She alleged that an amount of Rs. 1,00,000/- was given by her parents to petitioner on 28.02.2018. Sometime, thereafter, the petitioner and his family members again started mis-behaving with her and raising some demands. The complainant had given birth to a male child on 01.06.2019 and at that time also, the demands earlier raised were reiterated and shortly thereafter, the complainant was thrown out of her matrimonial house alongwith her son on 18.06.2019. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested on 23.08.2022. Another FIR bearing No. 1087 dated 29.12.2022 was registered by the complainant against the petitioner under Section 354-D (v) (2) of IPC and Section 67 of Information Technology Act. After completion of investigation, challan was presented against the petitioner.

3. The instant petition has been filed by the petitioner on the

grounds and it has been argued by his counsel that he has been falsely implicated in this case. The petitioner has dragged him into several litigations. The subject offences are not made out as against him. The allegations on the face of record do not make out any *prima facie* case for commission of offences punishable under Sections 323, 406, 498-A and 506 of IPC against him. Therefore, prayer is made for quashing of FIR No. 429 dated 18.05.2022 and proceedings having emanated therefrom.

4. I have heard learned counsel for the parties and have also gone through the materials placed on record.

5. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as *State of Haryana Vs*

Bhajan Lal (1992) SUPP 1 SCC 335, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

“(a) 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;

xxx xxx xxx xxx

(c) 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;

xxx xxx xxx xxx

(e) 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;

xxx xxx xxx xxx

(g) 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. Reference can further be made to *Gian Singh vs. State of Punjab, (2012) 10 SCC 303*, wherein Hon’ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in

exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can also be made to *Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy & Ors., (2011) 12 SCC 437*, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. Reliance can further be placed upon *State of Andhra Pradesh vs. Gourishetty Mahesh and others, 2010 Criminal Law Journal 3844*, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., 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 as that is the function of the trial Court.

7. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In *Monika Kumar vs. State of U.P., (2006) 8 SCC 781*, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the

section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice. In ***Taramani Parakh vs. State of M.P. and others, 2015 (2) RCR (Criminal) 445***, Hon'ble Supreme Court has held that Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed *prima facie*. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.

8. This Court had considered the contentions raised by learned counsel for the petitioner as well as learned State counsel in the wake of the above discussed position of law and in view of the contentions so raised, the foremost issue which in the opinion of this Court required determination is whether the allegations made against the petitioner are omnibus and are liable to be quashed. On applying the ratio of law as laid down in the above cited cases to the facts and circumstances of the present case, I am of the considered opinion that no case for quashing the FIR or the consequential proceedings arising therefrom has been made out. Investigation against the

petitioner has been completed. Challan stands presented. Charges have also been framed. The case is at the stage of producing prosecution evidence. The complainant in her complaint filed before the police is shown to have levelled specific allegations against the petitioner qua her being harassed on account of bringing insufficient dowry, qua demand of an Alto Car and cash amount of Rs. 5,00,000/- and also to the effect that she had been physically assaulted by the petitioner and his family members and was being criminally intimidated. On the basis of these allegations, it cannot be stated that at this stage that no case for commission of offences punishable under Sections 498-A, 323, 406, 506 read with Section 34 of Indian Penal Code, 1860 (for short ‘IPC’) has been made out against the petitioner. It would be premature to say so and the aforesaid aspect is to be considered during trial. Keeping in view the facts and circumstances of the case, this Court finds no good ground, whatsoever, to interfere at this stage for quashing of the FIR as well as consequent proceedings emanating therefrom. The petition is accordingly, dismissed. The trial is ordered to be conducted further in accordance with law and on its own merits.

[MANISHA BATRA]

JUDGE

10th April, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes