

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-39627-2023
Date of Decision: 07.02.2024

Baljit Kaur and another ...Petitioner
Vs.
State of Punjab and another ...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Manish Kumar Singla, Advocate with
Mr. Dinesh Kumar, Mrs. Shikha Singla and
Mr. Parminder Singh, Advocates, for the petitioners.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. Vishal Sharma, Advocate for
Mr. Jaskamal Singh Grewal, Advocate, for respondent
No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the FIR No. 30 dated 17.04.2023 registered under Section 379 IPC at Police Station Badali Ala Singh, District Fatehgarh Sahib (Annexure P-1) and all consequential proceedings emanating from the said FIR.
2. Learned counsel for the petitioner contends that petitioner No. 2 is the widowed daughter-in-law of the respondent No. 2/complainant, who has been falsely involved in the present case. The petitioner No. 1 is the mother of petitioner No. 2. Learned counsel further contends that the marriage of Jaspreet Kaur, petitioner

No. 2 was solemnized with Gurpreet Singh son of respondent No. 2/complainant on 13.12.2015. A daughter namely, Gurnaz Kaur was born out of the said wedlock on 07.07.2018. After the marriage, the petitioner No. 2 was harassed by respondent No. 2 and her son, i.e., Gurpreet Singh. A DDR No. 7 dated 14.09.2021 under Sections 107/151 Cr.P.C., was lodged at Police Station Zirakpur against Gurpreet Singh, husband of petitioner No. 2 and a lady Jaswinder Kaur as they were caught under suspicious circumstances at Hotel Grand, Baltana. Thereafter, the behaviour of Gurpreet Singh and respondent No. 2 became more rude and, ultimately, the petitioner No. 2 made a complaint against her husband Gurpreet Singh and his mother, i.e., respondent No. 2/complainant for harassment and humiliation on account of dowry etc. An enquiry was conducted by the Deputy Superintendent of Police (Crime Against Women and Children) Fatehgarh Sahib and on his recommendations, FIR No. 121 dated 15.12.2021 under Section 498-A IPC was ordered to be registered at Police Station Badali Ala Singh, District Fatehgarh Sahib, in this regard.

3. Learned counsel for the petitioner further contends that during the pendency of the said FIR, the respondent No. 2/complainant submitted an application No. 2367-Peshi dated 18.10.2021 regarding stealing of animal livestock of respondent No. 2 against petitioner No. 2, Jaskaran and Mandeep Kaur wife of Jaskaran. However, during inquiry, the allegations levelled by the

complainant/respondent No. 2 were found to be false and it was found that on the same day, the petitioner No. 2 as well as respondent No. 2/complainant sold their respective animals. In the meantime, Gurpreet Singh, husband of the petitioner No. 2 died in an road accident and one FIR No. 90 dated 10.08.2022 under Sections 279, 304-A and 427 of IPC was registered against unknown persons at Police Station Badali Ala Singh, District Fatehgarh Sahib. After the death of Gurpreet Singh, Mutation No. 1637 dated 03.01.2023 regarding inheritance of Gurpreet Singh, husband of petitioner No. 2 was sanctioned in favour of petitioner No. 2 being her widow, Gurnaaz Kaur, his daughter and his mother, i.e., respondent No. 2/complainant in equal share. After sanctioning of the mutation on 03.01.2023, the respondent No. 2 and the other family members became more aggressive towards the petitioners and even started interfering in the peaceful possession of the property, which fell to the share of petitioner No. 2 and her minor daughter. Even, the petitioner No. 2 and her minor daughter had to file suit for permanent injunction against the family of respondent No. 2 to protect their possession. Still further, the respondent No. 2 again started filing multiple applications, dated 13.02.2023 and 24.02.2023 and alleged that petitioner No. 2 had stolen their domestic animals in the year 2021. He further submits that respondent No. 2 had earlier moved an application dated 18.10.2021 with the same set of allegations, however, on enquiry, by the Deputy Superintendent of Police (Crime

Against Women and Children), Fatehgarh Sahib, the same allegations were found to be incorrect. During enquiry by the Deputy Superintendent of Police, petitioner No. 2 had clearly stated that she had divided her domestic animals with her mother-in-law, i.e. respondent No. 2. Ultimately, the petitioner No. 2 as well as her mother in law/respondent No. 2 had sold their respective animals in the market. Learned counsel further contends that even during the course of investigation, the prosecution could not collect any evidence to connect the petitioners with the alleged crime. Even, no recovery of animals livestock was made and the offence under Section 201 IPC was ordered to be added illegally. Even, it has not been found as to whom the animals were sold and the challan was presented against the petitioners without any incriminating evidence. Learned counsel further contends that in fact, the allegations levelled by the present complainant were highly unbelievable and without any basis. The entire story projected by the prosecution was patently unpalatable and concocted and the FIR was lodged by the respondent No.2, just to harass and humiliate the petitioners and their other family members. Even, the allegations pertain to an alleged accident of 2021, which were found to be false earlier and after 02 years, the police has registered the present FIR with some ulterior motive.

4. On the other hand, learned State counsel assisted by the learned counsel for respondent No. 2 have vehemently opposed the submissions made by the learned counsel for the petitioners.

However, the factual submissions made by learned counsel for the petitioners could not be disputed by them. Learned counsel further submits that during the course of inquiry, no recovery was made from Jaspreet Kaur, petitioner No. 2 and the offence under Section 201 IPC has also been added in the present case. Even, the final report under Section 173 Cr.P.C., has already been presented before the competent Court.

5. I have heard the learned counsel for the parties and perused the record.

6. In various judgments passed by the Hon'ble Supreme Court and this Court, it has been held repeatedly, while referring to the provisions of Section 482 Cr.P.C. that nothing under the Code of Criminal Procedure shall deem to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. The Hon'ble Supreme Court in the matter of Ajay Mitra Vs. State of M.P. & others, 2003(3) SCC 11, has held as follows:-

“Leave granted.

These appeals by special leave are directed against the judgment and order dated January 16, 2002 of High Court of Madhya Pradesh, by which three Petitions filed by the appellants under Section 482 Cr.P.C. were dismissed.

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Thereafter, the appellants filed three Criminal Miscellaneous Petitions under Section 482 Cr.P.C. before the High Court for quashing of the FIR and the proceedings of the case before the learned Magistrate. After hearing the parties, the High Court held that the investigation had not yet commenced in connection with the FIRs which had been registered at the Police Station and, therefore, the Petitions were pre-mature and accordingly all the three Petitions were rejected.

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The High Court has held that the Petitions filed by the appellants for quashing the complaint and the FIRs registered against them are pre-mature. The question which arises is that where the complaint or the FIR does not disclose commission of a cognizable offence, whether the same can be quashed at the initial stage? This question was examined by this Court in State of West Bengal & Ors. V. Swapan Kumar Guha & Ors., AIR 1982 Supreme Court 949 and it was held that the First Information Report which does not allege or disclose that the essential requirements of the penal provision are prima facie satisfied, cannot form the foundation or constitute the starting point of a lawful investigation. It is

surely not within the province of the police to investigate into a Report (FIR) which does not disclose the commission of a cognizable offence and the code does not impose upon them the duty of inquiry in such cases. It was further held that an investigation can be quashed if no cognizable offence is disclosed by the FIR. The same question has been considered in State of Haryana &Ors. V. Ch. Bhajan Lal &Ors. 1991(3) RCR (Criminal) 383 (SC) and after considering all the earlier decisions, the category of cases, in which the Court can exercise its extra-ordinary power under Article 226 of the Constitution or the inherent power under Section 482 Cr.P.C. either to prevent abuse of the process of any Court or to secure the ends of justice, were summarised in para 108 of the Report and sub- paras 1 to 3 thereof are being reproduced hereinbelow :

"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 F.I.R. 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."

6. The said judgment by the Three Judges Bench of the Hon'ble Supreme Court had affirmatively held that where an FIR does not disclose the essential requirements of the penal provision or does not disclose the commission of a cognizable offence, the same can be quashed at the initial stage. Reference has also been made to the judgment of Hon'ble Supreme Court in case ***"State of Haryana and others Vs. Ch. Bhajan Lal & Ors., 1991(3) RCR (Criminal) 383***), in which, it was observed that the High Court can exercise its extraordinary power under Article 226 of the Constitution or the inherent power under Section 482 Cr.P.C. 1973 either to prevent abuse of the process of any Court or to secure the ends of justice.

8. In the present case, the petitioner No. 2 is a widowed daughter-in-law of respondent No. 2, against whom, apparently, the complainant has personal scores to settle. Even, she had earlier filed a complaint dated 18.10.2021 regarding stealing of domestic animals against petitioner No. 2 and her family members. Enquiry was held and no grain of truth was found in the allegations levelled by

respondent No. 2. Unfortunately, Gupreet Singh, son of respondent No. 2/husband of petitioner No. 2 expired on 10.08.2022 and, thereafter, the differences grew between the parties. It is apparent from the record that mutation of inheritance No. 1637 dated 03.01.2023 regarding the inheritance of Gurpreet Singh (since deceased) had been sanctioned in favour of petitioner No. 2, her daughter Gurnaaz Kaur and respondent No. 2 in equal shares. Even, the petitioner had taken possession of the property, the respondent No. 2 and others tried to interfere in peaceful possession of the petitioner No. 2 and her daughter. Apart from that, the respondent No. 2 was also facing the prosecution in FIR No. 121 dated 15.12.2021 under Section 498-A IPC, registered at Police Station Badali Ala Singh, which was ordered to be registered against respondent No. 2. Thus, it is apparent that respondent No. 2 was already inimical towards the petitioner No. 2 and her family members.

9. Still further, the respondent No. 2 had earlier lodged a complaint with the police on 18.10.2021 with the same set of allegations that their domestic animals, i.e., two buffaloes, one cow and two calves were stolen by the petitioner No. 2 and her family members. However, the said application was investigated by the DSP (Crime against Women and Children), Fatehgarh Sahib and the allegations were found to be false. Now, after a gap of about 1 ½ year, on the basis of almost similar allegations, the present FIR has been registered on 17.04.2023. Even, during the course of investigation, no

animal has been recovered and even the prosecution has failed to prove the ingredients of the offences against the petitioners. Even, neither any animal has been recovered nor any other person, who had further helped the petitioners in disposing off the animals, had been arrayed as an accused. Apparently, the FIR has been got registered by respondent No. 2, just to victimize the petitioners and is an instrument to abuse the process of law.

10. In view of above, the FIR No. 30 dated 17.04.2023 registered under Section 379 IPC at Police Station Badali Ala Singh, District Fatehgarh Sahib (Annexure P-1) and all consequential proceedings arising therefrom are ordered to be quashed.

07.02.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

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Yes/No

Whether reportable

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Yes/No