

Neutral Citation No.2024:PHHC:009203

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.48405 of 2021 (O&M)

Date of Decision: 23.01.2024

Reserved on: 29.11.2023

Yashpal Sharma @ Mukesh and another ... Petitioners

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jasraj Singh, Advocate,
for the petitioners.

Mr. Kunwarbir Singh, AAG, Punjab.

Mr. Jai Narain, Advocate Legal Aid Counsel,
for respondent No.2.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioners under Section 482 of Cr.P.C. seeking quashing of FIR No.110 dated 09.08.2018 registered at Police Station Chabbewal, District Hoshiarpur under Section 304-B of the IPC, to which Section 34 of IPC has been added by the investigating agency vide DDR No.26 dated 05.05.2021 and the subsequent proceedings emanating therefrom.

2. Shorn of unnecessary details, the facts relevant for disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant Pardeep Kumar on 09.08.2018 alleging therein that his daughter Shivani who was married with accused Rohit Prashar about five years back, was subjected to cruelty by her in-laws and husband on account of demand of dowry. They used to extend beatings to her. Several times, compromises had been

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effected in this regard with a view to settle his daughter at her nuptial home. He alleged that on the same day at about 9:15 AM, he received information about the death of his daughter who was seven months pregnant at that time and was ill from the last three days. While alleging that she had been killed by accused Rohit Prashar, other members of her in-laws family including the petitioners who are maternal uncle and aunt respectively of the accused Rohit Prashar, he prayed for taking action against the culprits. Investigation proceedings were initiated. As per the Chemical Examiner Report which was called for after seeking postmortem examination of the dead body of the victim, the cause of death was consumption of organophosphorus. The present petitioner and the co-accused were apprehended. They were joined into investigation. The petitioners were extended benefit of bail. After completion of investigation, challan was presented in the Court and presently, the petitioners along with the co-accused are facing trial before the learned trial Court for offence under Section 304-B of IPC.

3. The present petition has been filed by the petitioners on the grounds and it has been argued by their counsel that they have been falsely implicated in this case. No specific overt act has been attributed to them in causing the alleged dowry death of the victim. They are residing separately in their own house and had no interference of any kind in the matrimonial life of the deceased and her husband. There is no material on record to indicate that they had any role in administering any poisonous substance to the victim or they had subjected her to cruelty on account of any demand of dowry. No injury was found on the person of the victim and there was no question of the substance like organophosphorus being administered to the victim in clandestine manner by the petitioners. Hence, it is argued that the

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FIR qua them deserves to be quashed.

4. As per the status report, the cause of death of victim was consumption of some poisonous substance. Learned State counsel assisted by learned Legal Aid Counsel for respondent No.2 has submitted that there was specific mention of names of the petitioners in the complaint and there are also specific allegations that they along with other members of the in-laws family of the victim had been repeatedly torturing her to fulfill the demand of dowry. He argued that it was not a case to quash the proceedings at this stage. The veracity of the allegations as levelled against them has to be decided in trial before the trial Court and they can prove their innocence in the trial. With these broad submissions, it was submitted that no case of quashing was made out.

5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

6. 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. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by

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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 and are reproduced as under:

“102 (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;

(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;

(4) Where the allegations in the FIR 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

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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.”

7. 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. 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

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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.

8. 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 **Dr. Monica Kumar and another vs. State of U.P. and others**, (2008) 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.

9. Having noticed the scope of interference by this Court in the petitions relating to quashing of FIR/chargesheet, let us revert to the facts of the present case as per which the petitioners who are maternal uncle and aunt respectively of the husband of the victim had tortured the victim along with other members of her in-laws family to that extent that she had died due to consumption of poisonous substance on 09.08.2018. Though in the complaint, it was alleged by the complainant that his daughter had been killed by the accused persons, however, it has been revealed that petitioners have not been charge-sheeted for commission of offence under Section 302 of IPC for causing homicidal death of the victim and the charges are that she had died a dowry death by consuming some poisonous substance by herself.

10. In the backdrop of these allegations and the contentions raised by the parties, in my considered opinion, the foremost question that requires

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against the petitioners are such which can be considered to be specific in nature or they are general and omnibus allegations. At the cost of repetition, it may be stated that the only allegation as levelled by the complainant in the FIR was that his daughter had been killed by her husband, his other family members including the petitioners. From a plain reading of the contents of the complaint, it is clear that even if the same are taken on their face value, they do not make out a prima facie case against the petitioners for causing her dowry death having made her consume some poisonous substance or illtreating her on account of any demand.

11. It is manifestly clear from the allegations in the complaint as well as from the relevant portion of the charge sheet that there is neither any allegation of demand of dowry nor any whisper of any wilful conduct of the petitioners of harassment of the victim at their influence with a view to coerce her to meet any unlawful demand by them so as to attract the provisions of Section 304-B of IPC. It is nowhere stated that they made any demand of dowry. It is also revealed that they are residing separately at some place which is at a distance of about 25 kms from the place of residence of the victim. The allegations also do not show that they were present when the alleged demands by husband and mother-in-law etc. of the victim were made and the poisonous substance was consumed by the victim. They are distinct relatives of the husband of the victim. Mere suspicion raised by the complainant that they had a hand in the death of the victim is not sufficient. These allegations do not amount to harassment with a view to coerce the victim to meet any unlawful demand of dowry. At the most, they reveal that they were insulting the victim. No act of abetment in connection with unlawful demand of property/dowry are alleged against them. The bald

allegations made against them seem to suggest the anxiety of the

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complainant to rope in as many of the husband's relatives as possible. Neither the FIR nor the charge sheet has furnished any legal basis for relegating the petitioners to face the ordeal of the trial. In the challan report, there is reference of some chat made by the victim through Whatsapp. However, as admitted by learned counsel for respondent No.2, the said chat does not make any reference to the present petitioners.

12. In **Geeta Mehrotra and another v. State of Uttar Pradesh and another, (2012) 10 SCC 741**, in identical circumstances, the Hon'ble Supreme Court had quashed proceedings by observing that family members of the husband were shown as accused by making casual reference to them. It was also observed that a large number of family members are shown in FIRs by casually mentioning their names and the contents do not disclose their active involvement and as such taking cognizance of matter against them could not be said to be justified. The test which is to be applied by this Court is as to whether the allegations as made in the FIR filed prima facie establish the offence and if given face value and even if taken to be correct in entirety, they make out any offence and in my considered opinion, the allegations made in the FIR or the evidence collected during investigation do not satisfy the ingredients of the offence and, therefore, it would not be proper to encourage harassment of the petitioners in a Criminal Court. There was just casual reference of names of the petitioners in the FIR by alleging that they were also involved in the death of the victim but no single incident had been mentioned against them. It cannot be overlooked that there is tendency to involve the entire members of the household in the domestic quarrel taking place in a matrimonial dispute. There is no specific allegation against them as to how they could be implicated into the bickering between

the victim and her in-laws. The FIR does not furnish any legal basis for

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taking cognizance. It would not be just to direct the petitioners to go through protracted procedure of trial especially when the FIR does not disclose ingredients of offence under Section 304-B of IPC against them. I, therefore, deem it just and legally appropriate to quash the proceedings initiated against the petitioners as the FIR does not disclose any material which could be held to be constituting any offence against them. Merely by making a general allegation that they were also involved in death of the victim without mentioning even a single incident against them as also the fact as to how they could be motivated to demand dowry when they are only related as mama and mami of the husband of the petitioner, I quash and set aside the criminal proceedings insofar as the petitioners are concerned.

13. Accordingly, FIR No.110 dated 09.08.2018 registered at Police Station Chabbewal, District Hoshiarpur under Section 304-B of the IPC, to which Section 34 of IPC has been added by the investigating agency vide DDR No.26 dated 05.05.2021 and the consequential proceedings arising therefrom, are ordered to be quashed qua the present petitioners only and the petition stands allowed.

14. Miscellaneous application(s), if any, also stand disposed of.

23.01.2024
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(MANISHA BATRA)
JUDGE

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