

Neutral Citation No. 2024:PHHC: 074873

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-20705-2011 (O&M)
Date of decision: 27.05.2024

Akhlesh Kumar and others ...Petitioners
Versus
State of Haryana and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Pawan Kumar Gupta, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners under Section 482 of Cr.P.C. seeking quashing of FIR No. 86 dated 07.04.2011, registered under Sections 498-A, 323, 506, 34 of IPC at Police Station Narnaul, District Mahendergarh and all the subsequent proceedings having emanated therefrom.
2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a written complaint filed by respondent No. 2/complainant Sushma alleging therein that she was married with the petitioner No. 3/accused Surinder Singh on 21.04.2008, as per Hindu rites and ceremonies. Her parents had spent a sum of Rs. 8 Lakhs in the marriage and had given sufficient dowry articles in

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the shape of gold ornaments, clothing, cash etc. She alleged that even before marriage, demands were raised by the petitioners for performing the marriage at Jaipur instead at village Bhusan Kalan, which is the native village of the complainant and under their pressure, her parents had arranged marriage at Jaipur. Soon after the marriage, the petitioners, who are brothers-in-law, husband, parents-in-law respectively of the complainant, had started harassing her by raising demand of an amount of Rs. 1 Lakh and Maruti car and on her showing inability on account of her parents to meet with this demand, she was subjected to cruelty. She was kept confined within the four walls of her matrimonial house and was extended beatings. A male child was born on 04.06.2009. At that time also, the petitioners reiterated their demand of Rs. 1 Lakh in cash and Maruti car and huge amount of money spent on Chhuchak ceremony was not considered sufficient by them. Rather, the articles brought by her parents had been thrown away. She alleged that she was extended beatings on 20.09.2009 and was ultimately thrown out of her matrimonial house along with her minor child in wearing apparels. It was further alleged that on 13.02.2011, the petitioners, in furtherance of their common intention, came to her parental house at village Bhusan Kalan, Narnaul and opened an assault on the family members of the complainant and extended threats to kill her, if their demand was not met. She also alleged that she had reported the matter to the police earlier also but no action was taken. As per the allegations, after registration of FIR, investigation proceedings were initiated. The petitioners were extended benefit of bail. After completion of necessary and usual formalities, *challan* under Section 173 of Cr.P.C. was presented

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against them in the Court and at the time of filing of the present petition, the case was fixed for producing prosecution evidence.

3. The instant petition has been filed on the grounds and it has been argued by their counsel that the petitioners have been falsely implicated in this case. Vague, general and omnibus allegations have been levelled against them. In fact, the respondent No. 2/complainant or her family members never resided at village Bhusan Kalan, Narnaul and they have always been the residents of Kailash Nagar, Jhotwara, Jaipur. A wrong address had been given. The petitioners had sufficient proof in the form of Ration Card and Voter Identity Card's details, which have been obtained by them to show that respondent No. 2/complainant and her family members were residing at H. No. 101, Kailash Nagar Jhotwara, Jaipur and not at village Bhushan Kalan, Narnaul. The story regarding any occurrence having taken place as on 13.02.2011 was a concocted one as petitioner No.4 Jagram Singh was an employee of Rajasthan Ex-Servicemen Welfare Cooperative Society Ltd., Jaipur and as on 13.02.2011, his presence was recorded in the record of the said society. Similarly, petitioner No. 2 Hoshier Singh, who is a Teacher in Govt. High School at Udaipur since 2011, was also on duty on the alleged date of occurrence and, therefore, the allegations qua their assaulting the respondent No. 2 and her family members stood belied. It is also argued that in fact, the act and conduct of the respondent No. 2 itself was questionable and it was her, who was not willing to settle in her matrimonial house.

4. It is further argued by learned counsel for the petitioners that the allegations as levelled are vague, general and omnibus in nature. Neither the exact date, month and year when the alleged demand of dowry had been

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raised have been mentioned in the FIR nor it was mentioned that which particular petitioner had raised what demand. Rather, it was mentioned that “all the accused demanded dowry”. It is further argued that there was no medical evidence to prove that the respondent No. 2 was extended beatings by either of the petitioners at any point of time. In fact, the FIR was a counterblast to the divorce petition, which had been filed by the petitioner No. 3 due to the fact that respondent No. 2 had left her matrimonial house along with minor child on 29.09.2009 and was not at all willing to live with him. It is also argued that the material placed on record was sufficient to prove that no part of cause of action had arisen at village Bhusan Kalan, which was falling within the jurisdiction of Police Station Sadar, Narnaul. Rather, a petition filed by respondent No. 2 under Section 125 of Cr.P.C., while showing herself to be the resident of village Bhusan Kalan, had been dismissed on the ground of lack of territorial jurisdiction and even the revision filed against the said order had also been dismissed. It is, therefore, argued that for lack of jurisdiction also, the FIR is liable to be quashed. With these broad submissions, it is argued that the petition deserves to be allowed and the FIR deserves to be quashed.

5. It will not be out of place to mention here that on 17.09.2013, the petitioners had withdrawn this petition in view of the information given by learned counsel for the respondent that all the witnesses of the prosecution had been examined and the case was fixed at the stage of producing defence evidence. However, subsequently, **CRM-48312-2013** was filed by the petitioners for recalling of the order dated 17.09.2013 and the same was ordered to be recalled on 21.11.2014 by observing that as per the report

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received from the trial Court, four prosecution witnesses had been examined and six remained to be examined.

6. Respondent No. 2/complainant had also filed reply by reiterating the allegations as levelled in the FIR and while alleging that charges had already been framed in this case, which had not been challenged, and since some prosecution witnesses had also been examined and as the question of jurisdiction could be decided only after adducing evidence, therefore, it is urged that the petition is liable to be dismissed.

7. It is also relevant to mention here that respondent No. 2 has not been putting up appearance in this case and, therefore, arguments addressed by learned counsel for the petitioners and learned State counsel have been heard and record has been perused with their assistance.

8. Learned State counsel, on the other hand, has argued that since charges have already been framed and four witnesses stand examined, therefore, the question of lack of jurisdiction of the Court can be examined by the trial Court and has, therefore, argued that the petition is liable to be dismissed.

9. I have heard learned counsel for the petitioners as well as learned State counsel at considerable length and have also perused the material placed on record.

10. At the outset, it will be beneficial 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

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powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are 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 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

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(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.

11. 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 and others : (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

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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.

12. 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. 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 on 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.

13. It is also well settled that if a petition under Section 482 Cr.P.C. has been filed at the stage of investigation, then it is only required to be considered whether a cognizable offence is disclosed or not. However, when the statements of the witnesses are recorded, evidence is collected and the chargesheet is filed after conclusion of investigation/enquiry, the matter stands on a different footing and the Court is required to consider the material/evidence collected through investigation. Even at that stage, the High Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting trial. If in order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof. At this stage, the High Court cannot appreciate the evidence as to whether it can draw its own inference from the contents of the FIR and the material relied on it. The appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Reference in this regard can also be made to the observations made by Hon'ble Supreme Court in *Kaptan Singh vs. State of U.P. and others*, 2021 SCC Online SC 580 and *Dhruvaram Murlidhar Sonar vs. State of Maharashtra* :, (2020) 3 SCC (Criminal) 672, wherein Hon'ble Supreme Court has observed that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception

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and not a rule. Inherent jurisdiction under Section 482 Cr.P.C. though wide is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

14. I have considered the contentions raised by learned counsel for the parties in the wake of above discussed position of law. In view of the arguments raised by the parties, the foremost issue, which in the opinion of this Court requires determination, is whether the allegations made against the petitioners are general and 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. Respondent No. 2/complainant, in her complaint filed before the police, had levelled specific allegations against the petitioners that on 13.02.2011, they came to her parental house at village Bhusan Kalan and assaulted at her family members and also extended threats to kill her, if their demand of dowry was not fulfilled. The allegations of her being assaulted at the hands of the petitioners and his other family members had also been levelled. On the basis of these allegations, it cannot be stated that no case for commission of offences punishable under Section 498-A, 323, 506, 34 of IPC of the IPC has been made out against the petitioners. More so, charges have been framed and even some of the prosecution witnesses have been examined before the trial Court. The question of territorial jurisdiction of the police station concerned shall be also be decided by the trial Court after appraising the evidence produced by the parties during trial. Therefore, it would be

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pre-mature to say that no prima facie case is made out against the petitioner and the FIR in question is liable to be quashed.

15. Keeping in view the facts and circumstances of the case, this Court finds no 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 Court is, thus, directed to continue with the trial in accordance with law and on its own merits.

16. It is, however, clarified that no observations made herein above are the reflection on the merits of the case and shall have no bearing on trial. The same are confined for the decision of the present petition only.

27.05.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>