

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.53841 of 2023
Date of Decision: 29.02.2024

Naveen Kumar

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Gaurav Sharma, Advocate,
for the petitioner.

MANISHA BATRA, J.(Oral)

1. The instant petition has been filed under Section 482 of Cr.P.C. by the petitioner seeking quashing of FIR No.427 dated 25.12.2020 registered under Sections 323, 34, 342, 498-A and 506 of IPC at Police Station Bawani Khera, District Bhiwani, challan report filed under Section 173 of Cr.P.C. as well as the order dated 20.07.2021 whereby charges have been framed by the learned trial Court against him and all the subsequent proceedings having emanated therefrom.

2. Brief facts relevant of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered against the petitioner on the basis of a written complaint filed by the respondent No.2-Luxmi alleging therein that she was married with the petitioner. He along with his mother used to physically assault her. She was mentally as well as physically tortured by them on account of demand of dowry. Threats were extended to her to get a divorce from the

petitioner. Even other members of her in-laws family used to behave very rudely with her. She alleged that now she was four months pregnant and even on the day of lodging of FIR, she was physically assaulted by her in-laws thereby endangering the life of the child in her womb as well. She also alleged that all her jewellery had been misappropriated by her mother-in-law. After registration of FIR, investigation proceedings were initiated. The present petitioner had been extended benefit of bail. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented against him and presently, he is facing trial for commission of offences punishable under Sections 323, 34, 342, 498-A and 506 of IPC.

3. The present petition has been filed by the petitioner seeking quashing of FIR, challan report, charge sheet framed against him and the subsequent proceedings having emanated therefrom on the ground that he has been falsely implicated in this case. He is facing gamut of trial since long. Infact, it was the respondent No.2, who had left her matrimonial house in October 2020, at her own and had started residing at her parental house. He had even filed a petition under Section 9 of Hindu Marriage Act seeking restitution of conjugal rights but the respondent No.2 had not even care to appear in that petition and filed false case as against him. It is also submitted that now he has come to know that respondent No.2 is having extra marital relation with one Chetan Sharma and the said Chetan Sharma is even stated to have been claiming that the female child born to the respondent No.2 was out of his loins. It is argued that the allegations on the face of record do not make out any case for commission of offences for which he has been booked

and challaned and, therefore, it is argued that his petition deserves to be allowed. The proceedings has initiated against him as well as the FIR deserve to be quashed.

4. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.

5. A perusal of material placed on record reveals that the aforementioned FIR had been registered by the respondent No.2 as against the petitioner and his family members on 25.12.2020 making allegations of her being subjected to cruelty on account of demand of dowry and about her being physically as well as mentally harassed at the hands of the petitioner. After conducting thorough investigation in the matter, challan had been presented against the petitioner. Even charges were framed against him as on 20.07.2021. The petitioner has been facing trial in this case ever since then. Out of the five witnesses, two prosecution witnesses have even been examined and the trial Court has been issuingailable warrants for securing presence of the remaining witnesses.

6. The question that arises for consideration before this Court is as to whether it is a fit case for exercising powers under Section 482 of Cr.P.C.

7. 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 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

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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.

8. 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 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

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or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

9. 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.

10. It is also well settled that if a petition under Section 482 Cr.P.C.

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

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down the section itself. It is further observed that the appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C.

11. On applying the ratio of law as laid down in the above cited cases to the peculiar facts and circumstances of the present case, I am of the considered opinion that no case for quashing of FIR or the consequential proceedings emanating therefrom including the challan report and order framing charges vide order dated 20.07.2021 has been made out. The respondent No.2, in her complaint filed before the police had levelled specific allegations qua her being harassed on account of bringing insufficient dowry, demand of dowry and about her being physical and mentally harassed. On the basis of these allegations, it cannot be stated that no case for commission of offences punishable under Sections 323, 34, 342, 498-A and 506 of IPC has been made out as against the petitioner. It would be premature to say so and aforesaid aspect is to be considered during trial. The trial has commenced and there is nothing to show that there would be any undue delay in conclusion of the same.

12. As such, keeping in view the entire facts and circumstances of the case, this Court finds that no ground whatsoever to interfere at this stage for quashing the FIR, challan report, charge sheet and other consequent proceedings emanating therefrom. The petition is accordingly dismissed. The trial is directed to be conducted further in accordance with law and on its own merits.

13. 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.

29.02.2024
manju

(MANISHA BATRA)
JUDGE

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