



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-61655-2024 (O&M)

Date of Decision: 09.12.2024

Aditya Maurya

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rakesh Kailash Sharma, Advocate (through V.C.)
and Mr. Saransh Sabharwal, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J. (ORAL)

Prayer in the present petition under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 ("BNSS") is for quashing of FIR No. 63
dated 11.06.2024 u/s 323, 406, 498A of IPC, 1860 (Section 406 of IPC added
lateron) registered at Police Station Women West Gurugram, District
Gurugram (Annexure P-1); **AND** all proceedings emanating therefrom
including Chargesheet (Annexure P-2) **on merits.**

Learned counsel for the petitioner *inter alia* submits that the
allegations made in the FIR are utterly false and fabricated. It is submitted
that the marriage between the petitioner and the complainant barely lasted for
4 months. Moreover, it was a love marriage between the parties. As such, all
allegations of dowry demand, et cetera are falsified. It is further submitted
that a Court marriage was conducted on 04.05.2023 and thereafter, a social
marriage was solemnized on 27.06.2023. As admitted in the challan
(Annexure P-2 at page 35 of the paper book) even “*no other family members
from the respondent’s side was present at this social marriage.*” As such, the



family of the petitioner was not included in the FIR as their involvement has not been found. The Investigating Agency has also concluded that the petitioner and the complainant used to fight over trivial issues. In fact, no contemporaneous complaints were made at the relevant point of time. The complainant has also admitted that there is a transcript where the complainant is seen openly abusing the petitioner's mother and his family members. Therefore, the conduct of the complainant herself is unusual and filing of the criminal complaint is an abuse of process of law. It is further submitted that the complainant has alleged that the petitioner had caused miscarriage of the complainant, however, the medical document contradicts the stand of the complainant. There are even no independent medical documents to support the allegations of the complainant. It is accordingly contended that the petitioner has been falsely implicated in the present case.

It is further argued on behalf of the petitioner that inherent power under Section 482 Cr.P.C. vests in this Court whereby, criminal proceedings which are manifestly frivolous and vexatious or instituted with ulterior motive for wreaking personal vengeance, can be quashed summarily. In this regard, learned counsel for the petitioner refers to *Sandeep Singh Gill vs. State of Punjab and another 2024(1) RCR (Criminal) 840; Jagjit Singh and others vs. State of Punjab* passed in *CRM-M-51993 of 2021*, decided on *20.12.2021 (Law Finder Doc Id #1939367)*; *Surjeet Singh vs. State of Punjab* passed in *CRM-M-50249 of 2023*, decided on *06.10.2023 (Law Finder Doc Id #2484408)*; and *Parminder Kaur Motay vs. State of Punjab and another* passed in *CRM-M-49863-2022* decided on *31.10.2022 (Law Finder Doc Id #2085887)* wherein in similar matters, the FIR has been quashed.

It is accordingly prayed that the present petition be allowed.



Per contra, learned counsel for the State submits that serious allegations have been made in the present FIR; and upon investigation, there is enough truth found in the allegations for challan to be filed against the petitioner. Learned counsel for the State refers to the final report under Section 193 BNSS dated 08.08.2024 (Annexure P-2) filed in the present case (at page 31 of the paper book) to submit that the complainant had previously also approached Police at Dhankot Thana where she was asked to get her medical done. Subsequently, the complainant had got the medical done, upon which injuries were found on the person of the complainant.

It is accordingly prayed that the present petition be dismissed.

No other argument is made on behalf of the parties.

I have heard learned counsel for the parties and perused the case file in great detail.

Perusal of record of the case shows that the petitioner was married to the complainant/respondent No.2 on 27.06.2023. The present FIR was registered by the complainant on 11.06.2024 and the same reads as follows: -

"I am MRS Priyanka Das wife of MR Aditya Kumar Maurya living in M3M Woodshire, B6, 1004, Sector-107 Gurgaon 122006. We got married on 27th June 2023 socially after in Kolkata. After marriage next day Aditya elder sister started asking for jewellery and other things as dowry. She said its our custom and blamed Aditya why she married bengali girl, she didn't give us anything in dowry, I was against it but I kept quit to save my marriage my marriage. After that when my vidai happened. we came down to Adityas house M3M Gurugram. He started fighting with me verbally and later on it turned to physical abuse also. He use to beat me whenever his sister and



mother use to call him and instigate him for demanding money from me Aditya told me to get 1 crore from my father and give him, when I denied he hit me badly. I got bruser. The tried to send me to my parents saying if you don't give us anything. I will give you divorce. His mother and sister use to abuse me and mistreat with me on call and when I got tired and hurt I scolded them, they got the voice recording of that without my permission and black mailed me to give dowry. Aditya's mother is a lawyer and she always use to blackmail me of separating me and Aditya Aditya hit me when I was pregnant because of which I lost my child. During my pregnancy they use to mentally harrase me and Aditya use to hit me. The use to scare me tha he will cummit suicide if I go against him, On 29th November 2023 he left home saying that he is going for flight but he abandoned me without anything he took all cards, documents, jewellery with him. Before going also he hit me and when he realised my face was swallen he put ice on me to recover the marks. On 1st December 2023 my parents came to meet us as Aditya called them so that we all can sit and solve the problem along with his mother and sister, he didn't pick the call and his lawyer called and asked us to do divorce with Aditya I begged him to let me take talk to Aditya, the lawyer connected me to his elder sister and she said she, Aditya and his mother decided for divorce. The harassed me and my parents and when I went to dhankot thana they told me to get the medical done. They took my complain we did our medical but no action was taken properly. I realised that he use to doubt on my character also as I found the hidden camera in my house. Aditya has done lots of fraud with me for money and his family is also equally involved in his conspiracy. I am also concerned he might leave the Country as he is a pilot in Air India and he said I will shift to Qatar airways soon. So kindly help me to get justice as soon as I am physically and mentally hurt and financially also I was dependent on him and I have no



source of income, I have to take loans from my parents and friend for my survival.”

A bare reading of the above FIR shows that very serious allegations have been made therein against the petitioner to the effect that he had made dowry demands; had demanded ₹1,00,00,000/- from the father of the complainant; upon denial of the said demand, the petitioner had beaten the complainant; in fact, the petitioner is alleged to have inflicted beatings upon the complainant frequently; that the petitioner had beaten the complainant even during her pregnancy due to which she had suffered miscarriage; the petitioner had abandoned the complainant; and that the petitioner had even installed cameras as he doubted the character of the complainant; there are even allegations of financial fraud against the petitioner. Needless to say, an FIR bearing such serious allegations cannot be summarily quashed without trial. The truth or otherwise of the above said allegations can be established only upon leading of evidence by both the parties.

Further, the complainant had named 3 persons as accused, the same being the petitioner-husband, his mother and his sister. Upon investigation, the sister-in-law and mother-in-law of the complainant were exonerated. However, sufficient material has been found against the petitioner for challan/ final report under Section 193 BNSS (Annexure P-2), to be filed against him. The relevant extract of the said challan is as follows: –

“.....In October 2023, while the complainant was approximately 7 to 8 weeks pregnant, she alleged that she suffered a miscarriage as a result of physical assaults. However, according to the documents provided by both parties, the medical report indicates No Fetal pole is seen at present, Cardiac activity is not seen in the present study, which led to the miscarriage. The investigation revealed that on 27.11.23,



following an altercation between the husband and wife, the defendant Aditya Maurya did not return to the complainant after his duty on 29.11.23.....The investigation was included in the chargesheet as per rules and froing was done on 22-06-2024. On 26-07-2024, the complaint (filed by the complainant against her husband at Police Post Dhanakot) was received alongwith the related documents from Rajendra Park Police Station. On 29-07-2024, the doctor's opinion was taken on the complainant's MLC No. MS/260/2023, wherein, the doctors categorized the injuries as of a simple nature....."

From the above, it is clear that the allegations of the complainant that the petitioner had beaten her, are also found to be correct as per "MLC no. MS/260/2023, wherein, the doctor categorised the injuries as of a simple nature." This Court is very clear that allegations of such nature disclosing cognizable offences cannot be simply brushed aside.

Besides the facts as noticed above, even the legal position in such like cases is very clear. A bare perusal of the FIR has revealed that very serious allegations have been made against the petitioners therein. In such a situation, it would be apposite to refer to a 3-Judge Bench of the Hon'ble Supreme Court in case titled as "**M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Others**" Law Finder Doc ID # 1830709, relevant part of which is reproduced hereinbelow:-

*"10. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of **Khawaja Nazir Ahmad (supra)**, the following principles of law emerge:*

i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;



ii) *Courts would not thwart any investigation into the cognizable offences;*

iii) *However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*

iv) *The power of quashing should be exercised sparingly with circumspection, in the rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C., 1973 is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);*

v) *While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;*

viii) *Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C., 1973*

ix) *The functions of the judiciary and the police are complementary, not overlapping;*

x) *Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*



xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., 1973 only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.



(Emphasis supplied)

Reliance may also be placed upon judgment of the Hon'ble Supreme Court in **“Satvinder Kaur Vs. State (Govt. of NCT of Delhi)”** **Law Finder doc ID # 32588**, wherein it has been held that: -

“D. Criminal Procedure Code, 1973, Section 482 - Quashing of FIR - Law enunciated by Supreme Court summed up :-

(i) If an offence is disclosed, Court will not normally interfere with investigation into the case and will permit investigation into the offence - If FIR, prima facie, disclosed commission of an offence, court does not normally stop the investigation, for to do so would be to trench upon the lawful power of Police to investigate into cognizable offences. 1982(1) SCC 561.

(ii) For purpose of exercising power under Section 482 Criminal Procedure Code, 1973 to quash FIR or a complaint, the High Court would have to proceed entirely on basis of allegations made in the complaint or the documents accompanying the same - It has no jurisdiction to examine the correctness or otherwise of the allegations. 1985(2) SCC 370.

(iii) Power of quashing the criminal proceedings should be exercised very sparingly with circumspection and that too in the rarest of rare cases.

(iv) Court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

(v) First information report is only an initiation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation itself should be quashed, utmost care should be



taken by the court and at that stage it is not possible for the Court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. 1991(1) RCR (Criminal) 831.

(vi) High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under Section 482 or under Articles 226 and 227 of the Constitution of India and allow the law to take its own course.

(vii) Such power should be sparingly and cautiously exercised only when the court is of the opinion that otherwise there will be gross miscarriage of justice.

(viii) Social stability and order is required to be regulated by proceeding against the offender as it is an offence against the society as a whole.”

In view of the factual and legal position, as noticed above, I find that an FIR of such nature cannot be summarily quashed. As such, the present petition is **dismissed**.

Pending application(s) if any also stand(s) disposed of.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

09.12.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No