
(2015) 02 P&H CK 0099
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc. No. M-3383 of 2014

Harjinder Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 16-02-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 155(2), 156(1), 319, 482

Citation : (2015) 02 P&H CK 0099

Hon'ble Judges : Sabina, J.

Bench : Single Bench

Advocate : K.S. Dhaliwal, for the Appellant; Deep Singh, AAG, Advocates for the Respondent

Final Decision : Allowed

Judgement

Sabina, J.—Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) challenging the orders dated 3.10.2012 (Annexure P-3) and 29.10.2013 (Annexure P-4).

2. Prosecution story, in brief, is that Baljit Kaur, daughter of the complainant, was married to Gurpreet Singh on 23.2.2007. After one month of her marriage, daughter of the complainant was harassed by her in-laws family. Accused demanded more dowry and compelled the daughter of the complainant to commit suicide. Accused had raised a demand of car and ` 2,00,000/- in cash. When the complainant showed his inability to meet the demand raised by the accused, Baljit Kaur was thrown out of the matrimonial home along with her minor child.

3. After investigation of the case, challan was presented against Gurpreet Singh. However, Gurpreet Singh was declared a proclaimed offender. Vide impugned order dated 3.10.2012, petitioners were ordered to be summoned to face the trial on an application moved by the prosecution under Section 319 Cr.P.C.

4. Learned counsel for the petitioners has submitted that petitioner No. 1 is the elder brother of Gurpreet Singh and petitioner No. 2 is the wife of petitioner No. 1. Petitioner No. 3 is the sister of Gurpreet Singh. Petitioner No. 3 got married in the year 1998 and since then she is residing in her matrimonial home. So far as petitioners No. 1 and 2 are concerned, they had got married in the year 2001 and are residing separately in the same house. Petitioners have been falsely involved in this case due to their relationship with Gurpreet Singh.

5. Learned State counsel as well as counsel for respondents No. 2 and 3, on the other hand, have opposed the petition and have submitted that specific allegations have been levelled against the petitioners.

6. In the case of State of Haryana and others Vs. Ch. Bhajan Lal and others, , the Apex Court has held as under:-

"The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

(1) Where the allegations made in the first information report or the complainant/respondent No. 2, 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 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 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 specific

provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings 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.

We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR 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."

7. In *Kans Raj Vs. State of Punjab and Others*, , their Lordships of the Apex Court have observed that a tendency has developed for roping in all the relations in dowry cases and if it is not discouraged, it is likely to affect case of the prosecution even against the real culprits. The efforts for involving the other relations ultimately weaken the case of the prosecution even against the real accused.

8. Admittedly, in the present case, petitioner No. 3 had got married in the year 1998 and is residing in her matrimonial home. So far as petitioners No. 1 and 2 are concerned, they are also admittedly residing separately in the same house. Petitioners No. 1 and 2 had got married in the year 2001. Gurpreet Singh is presently residing in Italy. It appears that petitioners have been involved in this case merely because of their relationship with Gurpreet Singh. Petitioners were found innocent during investigation as they were found to be residing separately. Further, it is normally seen that there is a tendency to involve all the relatives of the husband once a woman dies an unnatural death.

9. In the facts and circumstances of the present case, continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law.

10. Accordingly, this petition is allowed. Impugned order dated 3.10.2012 (Annexure P-3), qua the petitioners, is quashed. Consequently order dated 29.10.2013 (Annexure P-4), is set aside.