
same are hereby vacated. The assessing officer will now proceed with the assessment under section 147 of the Act in accordance with law. For the sake of clarification, we may repeat that nothing observed by us in this case would debar the assessing officer to bring to tax any other item of income which may have escaped assessment and which comes to his notice during the course of the proceedings under section 147 of the Act. However, for this purpose he cannot be allowed to make fishing inquiries to probe if any other income had escaped assessment or not. Such inquiries can only be permitted if in the first instance some material comes to his notice to suggest that some other item of income may have escaped assessment or had been under assessed. In that event he would be perfectly justified in requiring the petitioner to furnish the requisite information on such other issue as well.

(16) The writ petition is, therefore, allowed in the above terms. However, in the circumstances of the case, there will be no order as to costs.

R.N.R.

Before S.S. Nijjar, J

LAKHWINDER SINGH,—*Petitioner*

versus

STATE OF PUNJAB,—*Respondent*

Crl. M. No. 24143/M of 1998

21st August, 2000

Indian Penal Code, 1860—Ss. 498-A, 406 & 120-B—F.I.R. against brother of the husband on general allegations—No specific allegations of either entrustment of any articles of dowry or cruelty—Whether general allegations are sufficient to try a person for offences under Section 498-A & 120-B IPC—Held, no—Even if the allegations are taken at their face value and accepted in their entirety, prima facie no offence is made out—Proceedings liable to be quashed.

Held that, there are no specific allegations of either entrustment or cruelty against the petitioner. One of the allegations against the petitioner is that he had sister-in-law. This allegation by itself is of no consequence. There is no allegation of misappropriation. The allegations are generally made against the in-laws of the complainant. Even if the allegations are taken at their face value, no offence is made out.

(Paras 13 & 17)

Further held, that the allegations are vague and general in nature. Such allegations have been consistently disregarded by the Courts. Counsel for the complainant submits that the family members had demanded Rs. 50,000 to send the petitioner abroad. Thus, the petitioner can be prosecuted under Section 4 of the Dowry Prohibition Act. This allegation is absurd on the face of it. It is incomprehensible that the petitioner would make the demand from the complainant, when he could just as easily make the same demand from his own in-laws. The petitioner has been roped in, merely to put pressure on the husband. Even till this date, the husband is prepared to live with the wife. The wife who is present in Court states that she is not willing to go to live with her husband. Hence, the continuation of the proceedings would be complete abuse of process of the Court. Both the petitions are allowed.

(Paras 21 & 22)

Constitution of India, 1950—Art. 227—Code of Criminal Procedure, 1973—S. 482—Indian Penal Code, 1860—Ss. 498-A, 406 & 120-B—F.I.R. against brother of the husband—High Court staying further proceedings in the Court below—Court below framing charges inspite of the stay order—Whether High Court can entertain a petition under Section 482 Cr. P.C. after charges have been framed—Held, yes—High Court has jurisdiction under Section 482 Cr. P.C. & under Art. 227 to prevent the abuse of the process of law by the inferior Courts at any stage of the trial—However, such power should be exercised with great care and caution.

Held that there is no absolute bar to the entertainment of a petition under Section 482 Cr. P.C. only on the ground that charges have been framed. Each case shall have to be examined on its own facts. The wholesome jurisdiction conferred upon the High Court by Section 482 of Cr. P.C. cannot be narrowed, confined or put in a strait jacket. This inherent power can always be exercised by the High Court to prevent abuse of the process of court or to otherwise secure the ends of justice. The only constraint on the High Court is that since the power under this Section is very wide, it should be exercised with great care and caution.

(Paras 9 & 12)

Further held, that the Courts have consistently put an end to criminal proceedings which are an abuse of the process of Court. At the initial stage, at the summoning stage and even after charges have been framed, the High Court has the inherent power to quash proceedings and to pass such orders as are necessary to prevent abuse

of the process of any court or otherwise to secure ends of justice. Section 482 Cr. P.C. contains a non-abstante clause to the effect that nothing in the Code of Criminal Procedure shall be deemed to limit the powers of the High Court to prevent abuse of the process of Court. Therefore, filing of the charge sheet in Court does not in any manner affect the amplitude of the wholesome jurisdiction of the High Court under Section 482 Cr. P.C. The only rider being, that greater the power, greater the care and caution in exercise thereof !

(Para 20)

Ravinder Chopra, Advocate and Shiv Kumar, Advocate, *for the petitioner.*

Vikas Cuccria, AAG, Punjab, *for the State of Punjab.*

P.S. Ghuman, Advocate, *for the complainant.*

JUDGMENT

S.S. Nijjar, J.

(1) Crl. Misc. No. 12592-M of 1998 has been filed under Section 482 of the Code of Criminal Procedure for quashing the FIR No. 68 dated 15th March, 1998 under Section 498-A, 406, 120-B I.P.C. registered at Police Station Bathinda and for quashing of the proceedings arising therefrom. Crl. Misc. No. 24143-M of 1998 has been filed seeking quashing of the order dated 21st July, 1998 framing the charge against the petitioner under Sections 406/498 IPC. This order will dispose of both the petitions.

(2) Crl. Misc. No. 12592-M of 1998 came up for motion hearing on 21st May, 1998. It was brought to the notice of the Court that the Superintendent of Police (Headquarters) [hereinafter referred to as S.P. (H)] in his report Annexure P. 3 had recommended to drop the case. It was also pointed out that the petitioner is brother-in-law of the complainant (hereinafter referred to as the wife) and was studying at the relevant time. Notice was issued to A.G. Punjab and the second respondent for 4th August, 2000. On 20th July, 1998 further proceedings in the trial Court were stayed. In spite of the aforesaid order, the trial Court framed the charges by its order dated 21st July 1998. Therefore, it became necessary to file the second petition for challenging the order dated 21st July, 1998.

(3) In the FIR, it is stated that the wife was married to Jaswinder Singh on 17th February, 1995. One Baldev Singh Joshi was the

mediator. The parents of the wife had spent an amount beyond their means on the marriage but the in-laws were not satisfied. After marriage they started taunting the complainant for bringing insufficient dowry. They are alleged to have turned the wife out of the matrimonial home after beating her. On 24th October, 1996 she gave an application to S.S.P. Bathinda which was marked to Women Cell, Civil Lines, Bathinda. On 26th November, 1996, the wife gave the statement before Surinder Kaur Brar, Inspector, Women Cell. On 16th January, 1997, this Inspector made investigation and recommended for registration of the case. On 17th January, 1997, the S.P. (H) made an enquiry and called both the parties and the matter was compromised. The wife went back to the village of the husband. A few days thereafter the whole family again demanded more dowry and turned her out of the house again after beating. The wife again gave a detailed affidavit on 10th July, 1997 to S.S.P. and S.P. (H). The wife along with Panchayat appeared before the S.P.(H) who agreed to register the case. Thereafter, again the wife made request to the Senior Superintendent of Police. The case was again referred to Women Cell, Civil Lines. It is the allegation of the wife that the husband refused to take the wife home. The wife submitted an application before the Chief Minister on 12th December, 1997. She also sent copies to the Director General of Punjab, DIG Range Faridkot, Additional Director General of Police (Crime) Chandigarh. She made separate application on "28th January, 1998 to the S.S.P. Bathinda and S.H.O. Cantt not to issue a no objection certificate for going abroad". At the end of the FIR the wife further states that "action be taken against Jaswinder Singh (husband), Harchand Singh (father-in-law), Lakhwinder Singh (younger brother of the husband, brother-in-law of the wife), Manjit Kaur (mother-in-law) and Balwinder Kaur (wife of elder brother of the husband), who have maltreated me and turned me out of the house by demanding more dowry. All the accused are planning to go abroad with the intention to marry Jaswinder Singh with the sister-in-law of Lakhwinder Singh who is living abroad. I shall feel highly obliged."

(4) It is submitted by Mr. Ravinder Chopra, the learned counsel for the petitioner that the allegations in the FIR are general in nature. They are wholly vague. Even if the allegations are accepted in toto, on their face value the petitioner would not be convicted of the offences under Sections 406, 498-A and 120-B of the Indian Penal Code. Learned counsel further submits that as in most of the cases, the wife has named each and every member of the family just as a pressure tactic. He has pointed out to a certificate dated 5th January, 1996 issued by the Punjab Agriculture University which shows that the petitioner was a student from 15th September, 1993 till the completion of the academic

year 1996. During this period, he completed the course of M. Sc. Botony. He was staying in the hostel throughout. He married one jeevjot Kaur on 1st January, 1997. Thereafter, he went to England in May, 1997. He unfortunately returned to India on 4th March, 1998, and was falsely implicated in the present case. As a consequence of the registration of the FIR, the petitioner remained in jail till he was granted bail. Counsel has also brought to the notice of this Court Annexure P. 3 which is the report given by the S.P. (H). In this report, it is categorically stated that both the husband and wife are making allegations against each other due to their estranged relations. This report also shows that the wife was not prepared to live with the husband under any circumstance. The report further states that the enquiry has been made from different persons and it was found that the allegations made by the wife are not substantiated. The report also adverts to Section 9 of the Hindu Marriage Act proceeding pending in the Court. The report concludes with the observations that during the enquiry it was found that both the parties were bent upon harrasing each other and they want to misuse the process of law.

(5) Mr. Chopra also brought to the notice of this court the application made by the petitioner on 12th March, 1998 to the Superintendent of Police, seeking protection from involvement in a false case. In this application, it is stated by the petitioner that the wife of his brother and her family are putting up false applications agaisnt his brother and the family. The petitioner, therefore, seeks protection against false implication. In spite of this application having been made, the FIR was registered on 15th March, 1998. This was only 3 days after the application was given. The husband had also filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights. This petition was filed on 10th October, 1996. Service of this petition was sought to be effected on the wife. She, however, refused to accept service. Mr. Chopra, learned counsel for the petitioner, has placed on record a certified copy of the petition as well as the proceedings in the Court. He further points out that the present petition was filed on 18th May, 1998 and further proceedings were stayed on 20th July, 1998. In spite of this, the charge-sheet has been framed on 21st July, 1998. Mr. Chopra submits that the second petition has been filed by way of abundant caution. It was not necessary to file the second petition as the charge has been framed in spite of the order of this Court staying further proceedings. He submits, therefore, that the order dated 21st July, 1998 framing the charge is liable to be ignored; in any event the same is liable to be quashed as the trial Court at that time could not have proceeded with the matter and pass any further orders.

(6) Mr. Ghuman appearing for the wife has vehemently argued that the matter is squarely covered by the law laid down by the Supreme Court in *Minakshi Bala Vs. Sudhir Kumar* (1) to the effect that once the charge is framed, this Court would not be justified in quashing the proceedings. I am unable to accept the submission made by the learned counsel. In the case of *Minakshi Bala* (supra) the Supreme Court was dealing with a situation where High Court has quashed the proceedings even though the petition was filed on completion of the investigation and submission of the charge-sheet by the police. The Supreme Court observed as follows:—

“3. Having carefully gone through the impugned order, we are constrained to say that the entire approach of the High Court in dealing with the matter is patently wrong and opposed to settled principles of law. As earlier noticed, the petition under section 482 Criminal Procedure Code was filed in the High Court at a stage when the police had already submitted charge-sheet on completion of investigation and when the petition came up for hearing a competent court had not only taken cognizance thereupon but framed charges also. In spite thereof the High Court, surprisingly enough, proceeded to deal with the matter as if it was called upon to decide whether the F.I.R. disclosed any offence and, for that matter, whether investigation should be permitted to continue.....”

(7) The Supreme Court further observed in para 5 as follows :—

“5. In the case of *Swapan Kumar Guha* this Court was moved at a state when investigation was being carried on and the question for its consideration was as to whether the first information report lodged therein disclosed an offence under Section 4 read with Section 3 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 entitling the police to undertake the investigation. This Court examined that question with reference to the facts of the case and held that the allegations did not attract the provisions of the above Act. The High Court, therefore, was not at all justified in placing reliance upon the case of *Swapan Kumar Guha*.”

(8) In *Minakshi Bala*'s case F.I.R. was lodged on 24th September, 1990. Investigation having been completed the police submitted the charge-sheet on 31st December, 1990. The Petition under Section 482 Criminal Procedure Code was filed in this Court on 14th July, 1991.

By the time, the petition came up for hearing, the Additional Chief Judicial Magistrate had taken cognizance upon the charge-sheet and after hearing the parties framed charges under Sections 406 and 498-A of the Indian Penal Code against all the accused. The case was even fixed for prosecution evidence, as all the accused had pleaded not guilty. Before, however, evidence could be gone into the High Court took up the petition for final hearing alongwith another petition which the accused had filed for setting aside the charges, and quashed the entire proceedings. Two appeals were filed in the Supreme Court, which were decided by a common order. A perusal of the facts narrated above would show that there is a vital difference between the facts in Minakshi Bala's case (supra) and the facts in the present petition. In the present case, the F.I.R. was lodged on 15th March, 1998. The petition under Section 482 Code of Criminal Procedure is filed on 20th May, 1998. Prayer for stay of further proceedings on the basis of the F.I.R. is made in the petition itself. Petition came up for hearing on 21st May, 1998. This Court notices the submission that S.P.(H) has recommended that the case be dropped. Notice is issued to A.G., Punjab and respondent No. 2 i.e. the wife for 4th August, 1998. In spite of the notice having been issued, challan is presented by the police on 15th June, 1998. The petitioner, therefore, filed Criminal Miscellaneous No. 17718 of 1998 on 16th July, 1998 stating that the case is fixed for 23rd July, 1998. Prayer was made that further proceedings be stayed, as at the time when the main petition had come up for hearing, the challan had not been presented. This application came up for hearing on 20th July, 1998. Notice was issued to A.G., Punjab for 4th August, 1998, date already fixed for the main case. In the meantime, proceedings in the court below were stayed qua the petitioner. In spite of this order, on 21st July, 1998, Judicial Magistrate Ist Class, Bathinda has framed charges against all the accused including the petitioner. To challenge this order, it became imperative for the petitioner to file the second petition. In the present case, when the petition was filed, the police had not completed the investigation. The challan was presented after notice of the petition had already been issued. In spite of the stay granted by this Court, the Magistrate proceeded to frame the charge. The impugned order dated 21st July, 1998 is nonest in the eye of law. It is liable to be quashed on this short ground. Such being the position the observations made by the Supreme Court in para 5 of the Minakshi Bala's judgment (supra) clearly support the case of the petitioner. This case is covered by the ratio of the law laid down by the Supreme Court in the case of *State of West Bengal versus Swapan Kumar Guha* (2). Further more a reading of the observation made in

paragraph 7 of the judgment in Minakshi Bala's case (supra) makes it clear that the High Court is not debarred from entertaining a petition under Section 482 Code of Criminal Procedure, even when there is blatant abuse of the process of Court. In para 7, the Supreme Court observed :—

“To put it differently, once charges are framed under Section 240, Criminal Procedure Code, the High Court in its revisional jurisdiction would not be justified in relying upon documents other than those referred to in Section 239 and 240, Criminal Procedure Code nor would it be justified in invoking its inherent jurisdiction under Section 482 Criminal Procedure Code to quash the same *except in those rare cases where forensic exigencies and formidable compulsions justify such a course. We hasten to add even in such exceptional cases the High Court can look into only those documents which are unimpeachable and can be legally translated into relevant evidence.*” (Emphasis supplied)

(9) Clearly then, there is no absolute bar to the entertainment of a petition under Section 482 Code of Criminal Procedure only on the ground that charges have been framed. Each case shall have to be examined on its own facts. In the present case, the petitioner came to the Court at the first possible opportunity. He did not wait to present the petition till after the police had completed the investigation, as in Minakshi Bala's case (supra). In that case, when the petition was filed, police had completed the investigation, and had filed the charges in court. In view of the above, I am unable to accept the submission of Mr. Ghuman that the petition deserves to be dismissed, merely because the charges have been framed.

(10) The Supreme Court examined the ambit and scope of the powers of the High Court under Article 227 of the Constitution read with Section 482 of Code of Criminal Procedure in the case of *M/s Pepsi Foods Ltd. and another versus Special Judicial Magistrate and others*(3) In paras 22, 28, 29 and 30 it is observed :—

22. It is settled that High Court can exercise its power of judicial review in criminal matters. In *State of Haryana and others versus Bhajan Lal and others* JT 1990 (4) SC 650 = 1992 Supp (1) SCC 335, this Court examined the extraordinary power under Article 226 of the Constitution and also the inherent powers under Section 482 of the Code which it said could be

(3) J.T. 1997(8) S.C. 705

exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice. While laying down certain guidelines where the court will exercise jurisdiction under these provisions, it was also stated that these guidelines could not be inflexible or laying rigid formulae to be followed by the court. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. One of such guideline is 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. Under Article 227 the power of superintendence by the High Court is not only of administrative nature but is also of judicial nature. This article confers vast powers on the High Court to prevent the abuse of the process of law by the inferior courts and to see that the stream of administration of justice remains clean and pure. The power conferred on the High Court under Articles 226 and 227 of the Constitution and under Section 482 of the Code have no limits but more the power more due care and caution is to be exercised invoking these powers.

.....

29. No doubt the magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial.....
30. Provisions of Articles 226 and 227 of the Constitution and Section 482 of the Code are devised to advance justice and not to frustrate it. In our view High Court should not have adopted such a rigid approach which certainly has led to miscarriage of justice in the case. Power of judicial review is discretionary but this was a case where the High Court should have exercised it.”

(11) Again the same question fell for consideration of the Supreme Court in the case of *G. Sagar Suri versus State of U.P.* (4). In paragraphs 7, 8 and 9 it is observed as follows :—

“7. It was submitted by Mr. Lalit, learned counsel for the second respondent, that the appellant have already filed an application in the Court of Additional Judicial Magistrate for their discharge and that this Court should not interfere in the criminal proceedings which are at the threshold. We do not think that on filing of any application for discharge, High Court cannot exercise its jurisdiction under Section 482 of the Code. In this connection, reference may be made to two decisions of this court in *Pepsi Foods Ltd. & another versus Special Judicial Magistrate & others*, 1998 (5) SCC 749 and *Ashok Chaturvedi and others versus Shitul H. Chanchai & another*, 1998(3) RCR (Cr.) 801 : 1998(7) SCC 698 wherein it has been specifically held that though the Magistrate trying a case has jurisdiction to discharge the accused at any stage of the trial if he considers the charge to be groundless but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against them when no offence has been made out against them and still why must they undergo the agony of a criminal trial.

8. Jurisdiction under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. This court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.

9. In *State of Karnataka v. L. Muniswamy and others*, AIR 1997 SC 1489 : 1977 (3) SCR 113 this Court said that in the exercise of the wholesome power under Section 482 of the Code High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceedings are to be quashed.”

(12) The observations made above leave no manner of doubt that the wholesome jurisdiction conferred upon the High Court by Section 482 of Code of Criminal Procedure can not be narrowed, confined or

put in a strait jacket. This inherent power can always be exercised by the High Court to prevent abuse of the process of court or to otherwise secure the ends of justice. The only constraint on the High Court is that since the power under this section is very wide, it should be exercised with great care and caution. On the other hand, the court should not shy away from exercising this power when the accused persons are being persecuted in the guise of prosecution. Proceedings initiated and continued for oblique motives or to wreak vengeance on the other party are liable to be quashed. Proceedings are also liable to be quashed if even on the allegations being accepted in toto, *prima facie* no offence could be made out. These principles have been laid down by the Supreme Court in the celebrated judgment in the case *State of Haryana and others vs Ch. Bhajan Lal and others* (5). Guidelines 1 and 7 are relevant for the purposes of this case. They are:—

- (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.

.....

- (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.”

(13) On facts, Mr. Chopra is correct in his submission that even if the allegations are taken at their face value, no offence is made out. Throughout the complaint there is no particular allegation about any entrustment of any articles of dowry to the petitioner. There is no allegation of misappropriation. There are no specific allegation of cruelty, physical or mental. The allegations are generally made against the in-laws of the complainant.

(14) Mr. Chopra has relied on a number of decisions of this court to reiterate the well established principles of law. I need notice only some of them. In the case of *Jasvinder Singh vs. State of Haryana* (6). This court observed :—

8. Smt. Simarjit Kaur appears to have brought in the net almost every member of the family of her husband without specifying as to which article was entrusted to him/her so that he/she could be called upon to account for that article.....”

(5) AIR 1992 (S.C.) 604

(6) 1997(2) RCR 699

9. It is generally seen that when any marriage goes in rough weather the tendency of bride is to insinuate as many members of the family of her husband as possible with the allegation of laying demand for dowry and also treating her with cruelty when their demand for dowry is not being fulfilled. Allegations of misappropriation of dowry are also mad some times against those members of the family of husband who do not have anything to do with the dowry which is the concern of the bride and bridegroom and at best parents of the bridegroom. While deciding the quashment proceedings concerning such prosecutions the Court has to visualise every such situation creeping in so that no one is harassed through the process of criminal trial."

(15) These observations are fully applicable to the facts of the present case.

(16) In the case of *Shori Lal and others vs. Smt. Nisha and another* (7), this court observed :—

2. ...The matter does not rest here as the trial of the complaint reveals that no specific allegations regarding entrustment of the articles or maltreatment has been levelled against them. Simply because they were found wearing some ornaments of the complainant, it cannot be said that they have committed any offence under Section 405 and 406 Indian Penal Code, due to lack of prima facie proof of entrusting the property to them. Similarly, there is no specific allegation of entrustment of the articles forming Istri Dhan of the complainant to or against the parents of the husband, except the entrustment of Rs. 5000 on one occasion to Kishori Lal, petitioner, father of the husband. This High Court has taken a consistent view in such matters that no case under section 405 or section 406 Indian Penal Code, is made out against the parents-in-law or the sister-in-law of the petitioner where the allegations regarding entrustment of articles are vague. The decision of this Court in *Smt. Manna v. State of Haryana* 1987(1) Recent Criminal Reports 219, can be safely referred in this regard. Again in *Cr. Misc. No. 559-M of 1987 (Kartara Singh and others v. Kehro)*, decided on 18th May, 1987 by a Single Bench in this court, has taken a similar view. This view was also taken in *Cr. Misc. No. 4761-M of 1986 (Balwinder Kumar and another v. Keshava Devi)*, decided on 15th July, 1987."

(17) Again, these observations are fully applicable in the present case as there are no specific allegations of either entrustment or cruelty against the petitioner. One of the allegations against the petitioner is that he had threatened to arrange the marriage of his brother with his sister-in-law. This allegation by itself is of no consequence. A similar situation arose in the case of *Dhan Devi vs. Deepak*(8). In this case the husband actually married a second wife. When the first wife complained, she was beaten and abused. The complainant was asked to look after the second wife as she was expecting a child. It was also maintained that the second wife was using the clothes, ornaments and other gifts brought by the complainant. This court quashed the complaint against the mother-in-law with the observations that:—

“3. ... The law is well settled on the point that for summoning the accused on a complaint, the Court has to see the allegations contained in the complaint for concluding whether any prima facie cognizable offence is made out against the accused. In other words, it can be well said that at the stage of summoning the accused in a complaint, the Court has not to go into the truthfulness of the allegations contained in the complaint. In the present case, the allegations of entrustment of the Istri Dhan or mal—treatment against Dhan Devi, mother-in-law of the complainant are vague as it is alleged in the complaint that the articles mentioned in the list were entrusted to all the accused. Similarly, the complainant had levelled vague allegations about all the accused having mal—treated and harassed her.”

(18) Again, in the case of *Gurmeet Singh and others vs. State of Haryana and another* (9), it was alleged by the complainant that she was taunted by her husband and his relatives for not bringing enough dowry. Items demanded had been listed. This court quashed the proceedings against the brother of the husband and his wife. It was contended that if a bare reading of the FIR disclosed the ingredients of an offence, then there is no justification to interfere under Section 482 Code of Criminal Procedure. This Court held:—

“8. This contention of the learned counsel is valid but this Court can go into the allegations in order to prevent abuse of the process of the Court or otherwise to secure the ends of justice.....This allegation on the face of it seems false and frivolous. Brother and brother’s wife of Petitioner No. 1 who is the husband of

(8) 1989(1) R.C.R. 278

(9) 1993(1) R.C.R. 354

Gurjinder Kaur are employed at Chandigarh and are not living jointly with other petitioners. There is no reason why furniture, cooker, crockery, water cooler etc. were entrusted to brother's wife. These articles were for the use of the respondent Gurjinder Kaur. It appears that as there was disruption of marital life of the complainant, so she tried to involve all the close relatives of her husband. The allegations against the brother and brother's wife were made with an oblique motive to rope in close relatives in order to wreak vengeance from the husband. Otherwise, it is neither the custom nor the practice to give such type of gifts to the husband's brother's wife when no article was given to the brother himself. The allegations against these two petitioners are frivolous, vexatious and oppressive and the first information report is liable to be quashed against them."

(19) In the case of *Raj Pal Singh vs. State of Haryana* (10), this court quashed the FIR against the mother-in-law, brother-in-law and sister-in-law with the following observations:—

"11. From the allegations in the F.I.R. which I have set-forth above, it is clear that the allegations against the petitioners (who are mother-in-law, brother-in-law and sister-in-law of the complainant) are general and vague, without details. At one breadth (breath?), the complainant has stated that the dowry articles were handed over to accused Nos. 1 to 3 but in the next breadth (breath?) she has stated that they were received by accused Nos. 1 to 4. Similarly, she has stated at first that when she demanded the dowry articles, the first accused (namely her husband) refused to return them, but has subsequently stated that accused persons have converted the dowry articles and have also misappropriated some of them. Therefore, I find that the complainant, apart from making general and vague allegations against the petitioners, has also made varying allegations.

12. So far as cruelty alleged by the complainant is concerned, the complaint is once again vague and general. The complainant has stated that from the beginning, all the accused especially accused No. 1 (her husband) treated her cruelly. There is no specific allegation against any of the petitioners. The further allegation that few days after the marriage the accused persons started torturing her is also vague and without details. similarly, the allegation that the

other accused instigated her husband is also vague and general without being specific. Though, the complainant has stated that five months after the birth of male child, she was turned out of the matrimonial home, she has not specified as to who has done so. Her allegation that in July 1997, her husband at the instance of the other accused severally beat her and turned her out of the matrimonial home is again not specific about the petitioners, but, is only general. Similarly, the allegations regarding the entrustment of the dowry articles and the allegations regarding mis-appropriation are also not specific with reference to the petitioners. Further, the allegation in this petition is that the petitioners are living separately while the complainant and her husband lived separately in separate house and, therefore, there was no occasion for these petitioners to either demand dowry or misappropriate it or to treat the complainant cruelly as alleged by her. But the complainant has not chosen to appear and deny the allegation that herself and her husband resided separately while the petitioners resided separately in a separate house. This is also an additional factor which has to be taken into consideration. Therefore, I am of the view that the reading of the F.I.R. does not disclose any ground for proceeding against the petitioners for any of the offences alleged in the F.I.R. Therefore, the F.I.R. has to be quashed on this ground only.”

(20) It, thus, becomes fairly evident that the courts have consistently put an end to criminal proceedings which are an abuse of the process of Court. At the initial stage, at the summoning stage and even after charges have been framed, the High Court has the inherent power to quash proceedings and to pass such orders as are necessary to prevent abuse of the process of any court or otherwise to secure ends of justice. Section 482 Code of Criminal Procedure contains a non-abstante clause to the effect that nothing in the Code of Criminal Procedure shall be deemed to limit the powers of the High Court to prevent abuse of the process of Court. Therefore, filing of the Charge sheet in Court does not in any manner affect the amplitude of the wholesome jurisdiction of the High Court under Section 482 Code of Criminal Procedure. The only rider being, that greater the power, greater the care and caution in exercise thereof !

(21) Faced with this situation, Mr. Ghuman submitted that although the offence under Section 406 of Indian Penal Code may not be made out, but the allegations are sufficient to try the petitioner for offences under Section 498-A and 120-B Indian Penal Code. A perusal

of the allegations reproduced in para 2 above, makes it abundantly clear that the allegations are vague and general in nature. Such allegations have been consistently disregarded by the Courts. Mr. Ghuman submits that the family members had demanded Rs. 50,000 to send the petitioner abroad. Thus, the petitioner can be prosecuted under Section 4 of the Dowry Prohibition Act. This allegation is absurd on the face of it. The petitioner married Jeevjot Kaur on 1st January, 1997. He left for England in May, 1997. It is incomprehensible that the petitioner would make the demand for Rs. 50,000 from the complainant, when he could just as easily make the same demand from his own in-laws. I am of the considered opinion that the petitioner has been roped in, merely to put pressure on the husband. The petitioner came to India on 4th March, 1998. He gave an application to the Superintendent of Police on 12th March, 1998 for protection against fake implication. Within three days, the FIR has been lodged. He was put behind bars for some time. His passport is still in the custody of the police. He is unable to travel to England. I am of the considered opinion that the facts of this case clearly fall within the ambit of guidelines No. 1 and guideline No. 7 given in the case of Bhajan Lal (*supra*). Even till this date, the husband is prepared to live with the wife. On that basis from the record, it seems that this Court had called the parties in court. On 7th December, 1999, it is recorded that the wife who is present in court states that she is not willing to go to live with her husband.

(22) In view of the above, I find that the continuation of the proceedings would be complete abuse of process of the Court. Both the petitions are allowed. FIR No. 68, dated 15th March, 1998, registered at P.S. Kotwali, Bathinda, is hereby quashed qua the petitioner. Further proceeding on the basis of the charge framed by virtue of order, dated 21st July, 1998, are also quashed qua the petitioner. No order as to costs. A copy of the order may be given dasti.

S.C.K.

Before R. S. Mongia & K.C. Gupta, JJ

RAGHBIR SINGH,—*Petitioner*

versus

UNION OF INDIA & OTHERS,—*Respondents*

C.W.P. No. 717/C OF 1998

The 24th August, 2000

Constitution of India, 1950—Art. 226—Punjab Government National Emergency (Concession) Rules, 1965—Rls. 2 to 4—Petitioner