

2024:PHHC:092877



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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

113+239

Date of order: 23.07.2024

CRM-M-[REDACTED] (O&M)

[REDACTED] Kaur through her GPA Sh. [REDACTED] Singh

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CRM-M-[REDACTED] (O&M)

[REDACTED] Kaur

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Shakti Mehta, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG Punjab.

Mr. Bhupinder Ghai, Advocate
for respondent No.2.

Nidhi Gupta, J.CRM-[REDACTED] IN CRM-M-[REDACTED]

This is an application for placing on record some documents/orders as Annexures P-17 to P-24.

After going through the contents of the application, which is supported by affidavit of General Power of Attorney of the



petitioner, the same is allowed subject to all just exceptions and Annexures P-17 to P-24 are taken on record.

CRM-M-[REDACTED]

Present petition under Section 482 Cr.P.C. is filed seeking quashing of impugned order of proclamation dated 11.06.2014 (Annexure P-13) vide which the petitioner was declared absconder by the Court of learned Sub-Divisional Judicial Magistrate, Kharar in case bearing FIR No.248 dated 27.12.2012 registered under Sections 498-A and 406 IPC at Police Station City Kharar, District SAS Nagar (Mohali), Punjab (Annexure P3).

CRM-M-[REDACTED]

Present petition under Section 482 Cr.P.C. read with Article 227 of the Constitution of India is filed seeking quashing of criminal proceedings initiated vide FIR No.248 dated 27.12.2012 registered under Sections 498-A and 406 IPC at Police Station City Kharar, District SAS Nagar (Mohali), Punjab (Annexure P1); along with all subsequent proceedings arising therefrom against the petitioner.

2. Both these petitions are being disposed of by this common order as the facts, parties and FIR in question are identical. For the sake of convenience, facts, parties and Annexures are being referred to as per their status in CRM-M-43641 of 2022.

CRM-M-[REDACTED]: Proclamation orders:

3. Learned Counsel appearing for the petitioner inter alia submits that the petitioner is the married sister-in-law/nanad of the



complainant/respondent No.2. The petitioner is a practicing physician and has been living in Poland since 1989. The present petitions have been filed through her GPA Shri [REDACTED] Singh, son of late Shri [REDACTED] Singh.

4. Brief facts of the case are that the complainant/respondent No.2 herein, was married to the younger brother of petitioner namely [REDACTED] Singh on 18.11.2007. As [REDACTED] Singh is living and working in America since 1998, the complainant and her husband left for America soon thereafter, where a child was born out of their wedlock. However, as a result of marital discord between the two, they started living separately from 05.01.2012, whereafter the complainant returned to India, and filed the present FIR No.248 on 27.12.2012. The 4 accused in the said FIR are [REDACTED] Singh/husband of the complainant; the present petitioner; and [REDACTED] Singh/brother-in-law/Jeth, and [REDACTED]it Kaur/mother-in-law of the complainant.

5. It is submitted that the petitioner had come to India for attending the marriage of her younger brother [REDACTED] Singh with the complainant. Thereafter, the petitioner left India on 29.11.2007; and again arrived on 31.12.2011, and left India on 31.01.2012. Since then, the petitioner has not visited India. It is submitted that as such, the order of proclamation dated 11.06.2014 (Annexure P13) has been passed in the absence of the petitioner while she was residing abroad.

6. Learned Counsel further submits that a perusal of the challan (Annexure P-12) reveals that it has been clearly mentioned therein that the petitioner is a resident of Poland. Yet, inexplicably, process has



been issued in Mohali. It is submitted that despite knowing very well that the petitioner is not residing in India, the complainant in a mala fide manner gave Indian address of the petitioner with the oblique motive. Even no effort was made by the Investigating Agency to serve her at the foreign address as prescribed by law. Even provisions of Section 82 Cr.P.C. have not been complied with. It was in this background that the petitioner was declared proclaimed person without following proper procedure. All the above facts have been concealed by the complainant in the FIR.

7. Learned Counsel for the complainant/respondent No.2 although, opposes prayer made on behalf of the petitioner, however, has been unable to dispute the above facts.

8. I have heard learned counsel for the parties.

9. A perusal of the final report under section 173 Cr.P.C. dated 02.05.2018 (Annexure P-12), at page 158 of the paper book, mentions that all the four accused are residents of USA, Australia, and Poland. Petitioner had last visited India on 31.12.2011 and had returned to Poland on 31.01.2012 as is evident from copy of her passport Annexure P-1. As such, impugned order of proclamation dated 11.06.2014 (Annexure P-13) was passed while the petitioner was abroad. As per the statement of the serving official dated 11.04.2014 (Annexure P-23), it is noted that the petitioner was served at the address in Mohali and “...notice was pasted at accused [REDACTED] Kaur’s home address...”. Even as per the RTI reply dated 31.03.2018 (Annexure P-14), it has been admitted by the Investigating Agency that the accused were never summoned or notified regarding



issuance of LOC or PO proceedings at their actual foreign addresses. The petitioner has therefore not been served in accordance with law. In “**Nitin Jindal vs. State of Punjab and another**”, 2023(1) RCR (Criminal) 364 and “**Amandeep Singh and others vs. State of Punjab and another**”, 2018(2) Cri. CC 162, Co-ordinate Benches of this Court have held that order of proclamation can be set aside, when proclamation proceedings are initiated while proclaimed offender is not in India.

10. In view of the above, CRM-M-[REDACTED] is **allowed**; and the impugned order of proclamation dated 11.06.2014 (Annexure P13) vide which the petitioner was declared proclaimed person, is hereby set aside.

CRM-M-[REDACTED]:

On Merits - Quashing of FIR:

11. As regards the prayer of the petitioner seeking quashing of present FIR against her, learned Counsel for the petitioner submits that the complainant had filed an application seeking divorce from [REDACTED] Singh, which has already been allowed vide decree dated 09.06.2013 (Annexure P2) passed by a Court in America, wherein it is recorded that as per the testimony of the complainant, the parties had started living separately since 05.01.2012. However, the present FIR came to be filed only on 27.12.2012 i.e. almost 1 year after the parties had been living separately. It is contended that even otherwise there is no truth to the allegations made in the FIR. Learned Counsel submits that the allegations



are on the face of it concocted and utterly untrue as the matter has been investigated many times.

12. It is submitted that the present FIR is a classic example of abuse of process of law. The matter has been investigated three times by three different senior Gazetted police officers and each time cancellation report has been recommended. The first investigation was carried out by DSP, Investigation NRI and Women Wing, Punjab, Mohali. After thorough investigation, the said police officer submitted cancellation report before the Inspector General of Police, NRI and Women Wing, Mohali on 08.06.2015. The IGP agreed with the report and accordingly, recommended for filing the cancellation report in the Court.

13. The first cancellation report was submitted before the trial Court on 18.04.2016 but respondent No.2 objected to the said cancellation report. The learned trial Court ordered further investigation of the case by a Gazetted officer to be completed within three months vide order dated 18.04.2016 (Annexure P-5). Further investigation of the said FIR was then carried out for the second time by Superintendent of Police, (Police) Circle Kharar. Finding that the said FIR had been registered on the basis of wrong facts, it was recommended to cancel the same vide second cancellation report dated 18.05.2016 (Annexure P6). On an application by the complainant, the matter was investigated even further. The third investigation report dated 21.03.2018 (Annexure P8) again recommended cancellation of the FIR.



14. Per contra, learned counsel for the complainant has submitted that even though the parties have been granted divorce however, the same does not take away the seriousness of the allegations made by the complainant in the FIR. It is submitted that perusal of the FIR reveals that specific and serious allegations have been made therein against the petitioner. As such, the FIR cannot be quashed summarily.

15. Learned counsel for the complainant further submits that although, it is admitted that the petitioner resides in Poland however, she has played an active role in instigating her brother against the complainant. It is submitted that the petitioner and her brother used to talk regularly. In this regard, learned counsel refers to an email dated 24.07.2010, ostensibly written by [REDACTED] Singh to the complainant, wherein it is stated as follows:-

“That is the attitude that you should have always, i.e., accepting and going with what you have been told....I have discussed your situation with [REDACTED] bhaaji, mummy, and [REDACTED] bhabhi....I am going to discuss today with [REDACTED] and [REDACTED]....Then I will make an independent decision on how to proceed. I am not going to make you wait too longer. Whatever I decide by the end of today, you and your family will know it by tomorrow.

[REDACTED]”

16. It is submitted that from the above, it is patent that the petitioner and her brother [REDACTED] Singh were regularly in touch; and therefore, active role of the petitioner is established. As such, learned counsel opposes the prayer of the petitioner.



17. No other argument is made on behalf of the parties.

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

19. Brief facts of the case, as borne out from the record are as follows: –

1989: The petitioner is a practicing physician and living in Poland since 1989.

10.12.1999: Petitioner got married with [REDACTED] also resident of Poland and three children were born out of their wedlock.

30.10.2007: Petitioner came to India for attending marriage of her younger brother [REDACTED] Singh and respondent No.2 [REDACTED] Kaur.

18.11.2007: Marriage of [REDACTED] Singh and [REDACTED] Kaur/respondent No.2 was solemnized and soon after his marriage [REDACTED] Singh left for US where he is working since 1998.

29.11.2007: Petitioner left India and again arrived in on 31.12.2011 and left India on 31.01.2012.

24.12.2007: Respondent No.2 [REDACTED] Kaur reached USA.

27.08.2011: A child was born out of the wedlock of respondent No.2 and [REDACTED] Singh. Respondent No.2 stayed with [REDACTED] Singh, at USA during entire period of her married life. The petitioners never visited USA during the entire period when they had been living as husband and wife.



01.01.2012: Respondent No.2 and [REDACTED] Singh separated in USA and respondent No.2 initiated litigation/and filed a petition for divorce by invoking jurisdiction of Circuit Court of Virginia.

November 2012: After getting no relief from the Courts in the United States, respondent No.2 abducted the couple's only child and absconded to India with all the marital property in violation of standing Court orders. {This has been so recorded in the decree of divorce dated 09.06.2013 (Annexure P-2), granted by the Circuit Court of Virginia.}

27.12.2012: An FIR No.248 dated 27.12.2012 under Sections 406 and 498-A IPC was registered at Police Station City Kharar, Punjab (Annexure P-3). The complainant in the FIR has shown herself to be a resident of Kharar, District SAS Nagar, Punjab. Four persons were named as accused in the FIR being [REDACTED] Singh/husband, [REDACTED] brother-in-law, [REDACTED] eet Kaur/mother-in-law and [REDACTED] Kaur/present petitioner/married sister-in-law. In the FIR the complainant did not disclose material facts, including the fact that the accused are permanent residents of three different and separate countries of USA, Australia, and Poland respectively.

09.06.2013: Marriage of respondent No.2 with [REDACTED] Singh was dissolved vide final judgment and decree dated 09.06.2013 (Annexure P-2), on the basis of petition moved by respondent No.2 herself before the Loudoun County Circuit Court, Virginia, United States of America on the ground of cruelty towards [REDACTED] Singh. Relevant part of the said decree is reproduced hereinbelow: -



“11. The plaintiff suffers from mental illnesses as evidenced by her history of treatment, suicide attempts, the Report of Dr. Jennifer Marshall and numerous incidents of physical violence inflicted upon the Defendant by the Plaintiff. The Plaintiff was recommended to have further mental health testing by Dr. Marshall and was ordered by the Court to seek Anger Management therapy previously and has not complied;

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13. The defendant paid \$ 18,000.00 for the Plaintiff to train as a paralegal during the marriage.

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16. The plaintiff abducted the Child and absconded from the United States to India on November 23, 2012. In violation of an order of this Court preventing either party from removing the Child from the United States. Repeated attempts by the Defendant and multiple federal and local agencies and organizations to secure the return of the child to the United States were not successful. The child's abduction is currently under investigation from the United States Federal Bureau of Investigation, the United States Department of State Office of Children's Affairs, the Loudoun County Sheriff's Office and the National Center for missing and Exploited Children;

17. The plaintiff absconded to India with all marital assets of significant value, including, but not limited to jewelry, valuable household items and cash;

18. The defendant being a good father and fit parent, that the court has previously found that the defendant should play a significant role in the child's life and the plaintiff is preventing that is contrary to the best interests of the child;

19. The plaintiff has been found in contempt of multiple orders of this court including, but not limited to the order of this court



entered July 6, 2012 the Pendent Lite order of this court entered November 2, 2012 the order of this court dated December 10, 2012 and the order of this court of April 4, 2013 and has done nothings to purge her contempt. However, the plaintiff has filed multiple written responses and motions on several occasions with this court from her location in India which were taken into consideration by this court”

In view of the above facts, the custody of the child born to the parties was also given to ██████ Singh.

11.06.2014: The petitioner was declared proclaimed offender vide order dated 11.06.2014 (Annexure P-13), by serving at a local address where she was not present at the time of registration of FIR. Despite knowing fully well that the accused are not residing in India, respondent No.2 gave Indian address of the petitioner where she was not residing.

08.06.2015: The first investigation of the FIR was carried out by Sh. Jagdeep Singh Sidhu, PPS, DSP (Investigation), NRI & Women Wing, Punjab, Mohali. After thorough investigation, it was found that the allegations levelled in the FIR were false and baseless and it was registered by concealing material facts and hence vide order dated 08.06.2015 (Annexure P-4), recommendations were made to cancel the FIR and quash the PO proceedings.

15.06.2015: The IGP agreed with the report dated 08.06.2015 and accordingly, recommended for filing the cancellation report in the Court (Annexure P-4).



30.06.2015: The cancellation report was prepared in the present case/FIR No.30.06.2015 (as per reply dated 06.04.2018 filed on behalf of State in connected CRM-M-[REDACTED]).

18.04.2016: First cancellation report was submitted before the trial Court, which was objected to by respondent No.2; whereupon vide order dated 18.04.2016 (Annexure P-5), the trial Court ordered further investigation of the case by a Gazetted Officer to be completed within three months.

18.05.2016: As per orders of learned trial Court, further investigation of the said FIR was then carried out for the second time by the SP (Police), Circle Kharar. Finding that the said FIR had been registered on the basis of wrong facts, it was again recommended to cancel the same vide order dated 18.05.2016 (Annexure P-6).

25.12.2017: A complaint No.1504 dated 25.12.2017 was then submitted to the Punjab State Commission for NRIs, Chandigarh by the co-accused brother of the petitioner, namely [REDACTED] Singh.

21.03.2018: Respondent No.2 moved another application for further investigation of the said FIR. Without taking leave from the Court, further investigation was again carried out for the third time by Sh. Gursevak Singh Brar, SP (Headquarters), District SAS Nagar. The third investigation report again recommended cancellation of FIR vide order dated 21.03.2018 (Annexure P-8) at page 147 of the paper book.

30.03.2018: It has been submitted on behalf of the petitioner that the respondent No.2 is herself an Advocate having completed LLB, LLM, and her father and brother are practicing advocates in the District Courts of



Mohali and Kharar. On account thereof, the DDA Legal gave his opinion dated 30.03.2018 (Annexure P-9), that the chargesheet/challan be submitted against all the persons accused in the FIR totally ignoring all the peculiar facts, three cancellation reports and law on the subject.

31.03.2018: RTI reply dated 31.03.2018 (Annexure P-14), was received wherein it was admitted by the Investigating Agency that the accused were never summoned or notified regarding issuance of LOC or PO proceedings at their actual foreign addresses.

05.04.2018/23.05.2018: In the above-mentioned complaint number 1504 filed by the co-accused brother of the petitioner namely ██████████ Singh, the Punjab State Commission for NRIs observed in orders dated 05.04.2018 and 23.05.2018 (Annexure P-10 and P-11 respectively), that the accused were roped in the FIR by misusing the provisions of Sections 406 and 498-A IPC, that it failed to understand the logic of opinion given by the DDA Legal and that he overlooked the facts of the case, which was accepted by the SSP in a routine manner without application of his mind.

02.05.2018 – Challan dated 02.05.2018 (Annexure P12) was submitted in the matter, and it is recorded therein as follows:-

“...As per the aforesaid orders in the abovesaid case being no truth in the case prepared cancellation report on the basis of the same, cancellation report was submitted on 30.6.2015 and on 18.04.2016 cancellation report was presented in the Hon’ble Court, Kharar but the applicant/complainant did not agree on which Judge Sahib ordered re-investigation of the case. After that Shri Raj Balwinder Singh Marar, Superintendent of Police



has entered a zimni dated 18.05.2016 regarding filing of cancellation report in the case. Then a complaint was presented bearing no.2848/Peshi/SSP/SAS Nagar dated 23.12.2016 from [REDACTED] Kaur D/o Gurmail Singh [REDACTED], [REDACTED] against [REDACTED] etc. In the investigation of which SP(H)/SAS Nagar vide no. 189/5S/Superintendent of Police, Headquarters dated 23.03.2018 written that I agree with the cancellation report in respect of the said FIR...”.

Thereafter, on the basis of opinion of DDA Legal SAS Nagar, challan was prepared against the accused and filed in Court. As per the challan all the three countries of the four accused are mentioned therein being America, Australia and Poland, yet process is issued in Mohali.

07.05.2018: Chargesheet was submitted before the learned trial Court.

17.07.2015/14.09.2022: Present petitions were filed seeking quashing of the order of proclamation as also the FIR being a gross misuse of process of law.

20. It has also come on record that in addition to the above proceedings, the respondent No.2 has initiated cases under the Domestic Violence Act, and the Hindu Adoptions and Maintenance Act, 1956 against the accused. Moreover, as already noted above, after thorough investigation cancellation reports have also been filed in the present case numerous times. The observations of the Punjab State Commission for NRIs in orders dated 05.04.2018 and 23.05.2018 (Annexure P-10 and P-11 respectively), that the accused were roped in the FIR by misusing the



provisions of Sections 406 and 498-A IPC, that it failed to understand the logic of opinion given by the DDA Legal and that he overlooked the facts of the case, which was accepted by the SSP in a routine manner without application of his mind, are telling.

21. The legal position in such like cases is crystal clear. Reference may be made to judgment of the Hon'ble Supreme Court in case of "**Krishna Lal Chawla & Ors. Vs. State of UP & Anr.**" Law Finder Doc ID # **1816686**, where filing of multiple complaints/multiple enquiries has been held to be violative of the Fundamental Right enshrined under Article 21 of the Constitution of India. In this landmark judgement, the Hon'ble Supreme Court has held in para 21 thereof that there are inherent powers to prevent the abuse of process so that the Courts shall not suffer a litigant utilising the institution of justice for unjust means. Relevant extract is as under:-

"B. Constitution of India, 1950 Article 21 Criminal Law – Multiple complaints – Permitting multiple complaints by same party in respect of same incident, whether it involves cognizable or private complaint offence, will lead to accused being entangled in numerous criminal proceedings – As such, he would be forced to keep surrendering his liberty and precious time before police and Courts, as and when required in each case – Such transaction is not only impermissible but it violates Article 21 of Constitution.

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*6. The grave implications of allowing such misuse may be understood better in light of the following exposition by this Court in **Amitbhai Anilchandra Shah v. CBI & anr, (2013) 6 SCC 348:***

"37. This Court has consistently laid down the law on the issue interpreting the Code, that a second FIR in



*respect of an offence or different offences committed in the course of the same transaction is not only impermissible but it violates Article 21 of the Constitution. In **T.T. Antony [(2001) 6 SCC 181: 2001 SCC (Cri) 1048]**, this Court has categorically held that registration of second FIR (which is not a cross-case) is violative of Article 21 of the Constitution." (emphasis supplied)*

*Article 21 of the Constitution guarantees that the right to life and liberty shall not be taken away except by due process of law. Permitting multiple complaints by the same party in respect of the same incident, whether it involves a cognizable or private complaint offence, will lead to the accused being entangled in numerous criminal proceedings. As such, he would be forced to keep surrendering his liberty and precious time before the police and the Courts, as and when required in each case. As this Court has held in **Amitbhai Anilchandra Shah (supra)**, such an absurd and mischievous interpretation of the provisions of the CrPC will not stand the test of constitutional scrutiny, and therefore cannot be adopted by us.*

*7. The implications of such successive FIRs on an individual's rights under Article 21 of the Constitution has been elaborated further in **T.T. Antony (supra)**:*

*"27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that subsection (8) of section 173 CrPC, 1973 empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In **Narang case [Ram Lal Narang v. State (Delhi Admn.), (1979) 2 SCC 322 : 1979 SCC (Cri) 479]** it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under section 173(2) CrPC, 1973."*



(emphasis supplied)

Thus, it is incumbent upon this Court to preserve this delicate balance between the power to investigate offences under the CrPC, and the fundamental right of the individual to be free from frivolous and repetitive criminal prosecutions forced upon him by the might of the State. If the Respondent No. 2 was aggrieved by lack of speedy investigation in the earlier case filed by him, the appropriate remedy would have been to apply to the Magistrate under section 155(2), CrPC, 1973 for directions to the police in this regard. Filing a private complaint without any prelude, after a gap of six years from the date of giving information to the police, smacks of mala fide on the part of Respondent No. 2.

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21. It is a settled canon of law that this Court has inherent powers to prevent the abuse of its own processes, that this Court shall not suffer a litigant utilising the institution of justice for unjust means. Thus, it would be only proper for this Court to deny any relief to a litigant who attempts to pollute the stream of justice by coming to it with his unclean hands. Similarly, a litigant pursuing frivolous and vexatious proceedings cannot claim unlimited right upon court time and public money to achieve his ends."

22. Even otherwise, it is the case of the complainant herself that after her marriage on 18.11.2007, she had departed for the US within five weeks thereafter on 24.12.2007. Admittedly, the complainant has been living separately from her husband since 05.01.2012. However, present FIR came to be filed almost one year thereafter on 27.12.2012. There is no explanation for the said delay.

23. Moreover, learned counsel for the complainant has been unable to deny the deeply troubling and incriminating findings of the Loudoun County Circuit Court, Virginia, United States of America against



the complainant to the effect that she suffers from mental illness; that she has committed Contempt of the said Court; that she had abducted the minor child and absconded to India with the marital property; that the husband [REDACTED] Singh has given USD 18,000 to the complainant for her studies. All of the above findings, lay bare the falsehood of the allegations made by the complainant in the FIR.

24. Even a perusal of the allegations made by the complainant against the present petitioner in the FIR shows that the same do not constitute a cognizable offence. Admittedly, the petitioner is married and has been residing in Poland since 1989. She is a practicing Physician in Poland. Her marriage was solemnized on 10.12.1999 with Dr. [REDACTED] Chourasia resident of Wroclaw, Poland, much prior to the wedding of the complainant on 18.11.2007. The petitioner is residing happily in Poland with her family. She had last come to India on 30.10.2007 to attend the marriage of her brother. Thereafter, she left India on 29.11.2007; and again arrived on 31.12.2011 and left India on 31.01.2012 and has not returned to India after that. The complainant and her husband reside in America. It has not been refuted that during this entire period when the complainant/respondent No.2 stayed with brother of the petitioner in America, the petitioner never once visited USA or interacted in any manner with her brother or the complainant. As such, the allegations made against the petitioner are utterly false and fabricated.



25. In any event, the FIR reveals that the only allegation against the petitioner is that “...*That my sister-in-law before going to Poland demanded my gold set but I refused, on this my sister-in-law thrashed me when I resisted then my husband slapped me. I kept enduring all this in order to save my marriage. My mother-in-law snatched my phone so that I may not be able to tell this to my parents...*”.

26. I have perused the FIR in minute detail and find that only vague, general, and omnibus allegations have been made by the complainant against all the accused in an attempt to rope in the entire family of the husband in criminal proceedings. There are no specific dates, times, and places of incidents mentioned. Even the said demands of dowry were not made in the presence of anyone else except the complainant. Thus, only general allegations have been made. Even otherwise, the said allegations do not stand scrutiny being contrary to the established facts on record. As regards, allegations of ‘thrashing’ the complainant, admittedly, there is no MLR on record. As such, this Court is of the view that the present FIR is merely an attempt to harass and wreak vengeance upon the accused.

27. In the facts and circumstances of the present case, it would be apposite to refer to a three-Judge Bench judgment of the Hon’ble Supreme Court in “**Abhishek Vs. State of Madhya Pradesh**” 2023 SCC **OnLine SC 1083**, relevant part of which is reproduced hereinbelow:-



“13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in **Kahkashan Kausar alias Sonam v. State of Bihar [(2022) 6 SCC 599]**, this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.

14. In **Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667]**, this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinized with great care and circumspection.

15. Earlier, in **Neelu Chopra v. Bharti [(2009) 10 SCC 184]**, this Court observed that the mere mention of statutory provisions



and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

*16. Of more recent origin is the decision of this Court in **Mahmood Ali v. State of U.P. (Criminal Appeal No. 2341 of 2023**, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr. P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr. P.C. or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”*

28. Reference may also be made to another judgment of the Hon’ble Supreme Court in case of “**Harmanpreet Singh Ahluwalia & Others Vs. State of Punjab & Others**” Law Finder Doc ID # 190773, wherein it has been held as under:-

“A. Criminal Procedure Code, Section 482 – Indian Penal Code, Section 420 and 406 Criminal Procedure Code Section 178 – Territorial jurisdiction – Parties married at Jalandhar thereafter living in Canada – Demand of dowry made in Canada – FIR



lodged at Jalandhar – FIR quashed, inter alia, on the ground that larger part of offence was committed in Canada”.

29. This Court in **“Satwant Singh & Others Vs. State of Punjab & Another” 2008 (4) RCR Criminal 429/Law Finder Doc ID # 144907**, in similar circumstances, quashed the FIR by holding that: –

“Criminal Procedure Code, Sections 181 and 177 - Indian Penal Code, Sections 498A and 406 - Territorial jurisdiction - Marriage solemnized in India - Parties thereafter living in Canada - Both citizens of Canada - Petition for divorce and custody of the child filed in a Family Court at Canada - Wife sending complaint to police that she was harassed by parents of husband by making demand and misappropriation of dowry given at time of marriage - A case under sections 498A and 406 Indian Penal Code registered at Hoshiarpur - FIR quashed - Held :-

This is a classic case of misuse of process of the Court where process of the law has been used as a tool to harass the petitioners to vindicate her grudge on account of the proceedings taken out at Canada - In view of the fact that the Court at Garshankar/Hoshiarpur have no jurisdiction to entertain and try the case. 2004(3) RCR (Criminal) 988 : 2004(3) Apex Criminal 455 (SC) relied.”

30. In the case of **“Bahadur Singh & Others Vs. State of Punjab & Another” Law Finder Doc ID # 210334**, this Court in similar circumstances held as follows:–

“Criminal Procedure Code, Section 177 – Indian Penal Code, Sections 498A and 406 – Territorial jurisdiction – Husband and wife living in Canada after marriage – Allegation by wife that father, brother, and brother’s wife of husband used to make demand through phone calls and husband used to beat her at Canada – Complaint under Sections 406, 498A of Indian Penal Code filed in India – Complaint quashed – Held:



Larger part of offence has taken place in Canada - Marriage has already been dissolved at Canada – Thus impugned FIR is nothing but an abuse of process of criminal law”.

31. I would like to also refer to a three-Judge Bench judgment of the Hon’ble Supreme Court in **“State of Madhya Pradesh Vs. Laxmi Narayan & Others”** Law Finder Doc ID # 1385786, wherein it has been held as under:-

“29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases”.

32. I find the present case to be one such compelling case where I find the possibility of conviction of the petitioner to be remote and bleak, and I find that great oppression and prejudice and extreme injustice would be caused to the petitioner if the present proceedings are allowed to continue.

33. Accordingly, the present petition is **allowed**; and FIR No.248 dated 27.12.2012 registered under Sections 498-A and 406 IPC at Police Station City Kharar, District SAS Nagar (Mohali), Punjab (Annexure P3); along with all subsequent proceedings arising therefrom, is quashed qua the petitioner.

34. It is pertinent to mention here that a connected petition bearing CRM-M-29540-2018 was filed by [REDACTED] Singh and [REDACTED] Kaur, who are the brother-in-law and mother-in-law, respectively, of the



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complainant seeking quashing of proclamation orders dated 11.06.2014 and 18.07.2014; as also seeking quashing of the present FIR No.248 dated 27.12.2012; and the same has also been allowed by this Court by order of even date.

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

23.07.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

