

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**Crl. Misc. No. 8321 of 2015(O&M)  
Date of decision : 04.04.2016**

**Mohinder Pal & Anr.**

**... Petitioners**

**versus**

**Pooja Rani**

**... Respondent**

**with**

**Crl. Misc. No. 11774 of 2015(O&M)**

**Jai Karan & Anr.**

**..... Petitioners**

**versus**

**Pooja Rani**

**... Respondent**

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

1. Whether Reporters of local papers may be allowed to see the judgment?  
Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**Argued by: Mr.N.S. Shekhawat, Advocate  
for the petitioners.**

**Mr. Rajesh K. Kataria, Advocate  
for the respondent.**

**ANITA CHAUDHRY, J.**

Both the petitions are being decided together as they arise from the same complaint.

The petitioners are seeking quashing of complaint dated 08.10.2013, titled Pooja Rani Vs. Ajit Pal & Ors and the summoning order dated 24.09.2014 passed by learned Additional Chief Judicial Magistrate, Kaithal vide which they were summoned to face trial under Section 420 read with Section 120-B IPC. Challenge was also made to the judgment dated 15.01.2015 passed by learned Additional Sessions Judge vide which their

revision was dismissed and the order was modified and instead of 420 IPC, they were summoned under Section 417 IPC.

The facts as gathered from the records are being noticed first.

Pooja was married to Ajit Pal on 28.10.2012. Subhash (accused No.8 in the complaint) was the mediator. After marriage, Pooja came to know that Ajit Pal was already married to Indu Bala and had two children. Indu Bala had filed a complaint under Section 494 IPC against Ajit Pal, wherein a compromise had arrived at and the complaint was withdrawn on 16.08.2013. Pooja Rani got registered FIR No. 112 dated 05.09.2013, under Sections 406, 498-A and 506 IPC against husband Ajit Pal, mother-in-law Dayal Kaur @ Dayalo, father-in-law Ram Sarup, brother-in-law Mohinder Pal, his wife Rinki, sister-in-law Geeta and her husband Jai Karan and mediator Subhash. She also filed the impugned complaint before the Court on 08.10.2013 against the aforesaid accused under Sections 420, 495, 376 and 120-B IPC alleging therein that all the accused were aware of the fact that Ajit Pal was already married and they had hatched a conspiracy and concealed the fact and induced the complainant to marry him and she was cheated by all of them. Ajit Pal had developed physical relations fraudulently.

By way of preliminary evidence, the complainant examined herself as CW6, she produced seven other witnesses, including PW2 Pandit Suraj Bhan who performed the marriage of Pooja and Ajit Pal, PW4 Dhoop Singh, PW5 Vakil Singh, PW7 Jai

Pal and PW8 Parveen who attended the marriage.

The trial Court vide order dated 24.09.2014 summoned the husband Ajit Pal under Sections 420, 495 and 120-B IPC, while the remaining accused were ordered to be summoned under Section 420 read with Section 120-B IPC.

The accused preferred a revision petition against the summoning order. As noticed above, the revisional Court dismissed it with a modification that offence under Section 417 IPC was attracted because there were no allegation of inducement for delivery of property and a separate case regarding dowry was filed.

Dis-satisfied with it, petitioners Mohinder Pal, his wife Rinki, Jai Karan and his wife Geeta have preferred separate petitions.

Reply to the petition was filed by the complainant controverting the averments made therein.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for the petitioners had urged that no marriage, as alleged, had taken place between the complainant and Ajit Pal and the story had been concocted and they had no occasion to induce the complainant or her father to marry Ajit Pal by concealing the first marriage and the petitioners had nothing to do in the matter and they were residing separately from Ajit Pal. It was further urged that the complainant was habitual in filing complaints and she had lodged a FIR against her previous

husband under Sections 498-A and 406 IPC and after extracting money, she had turned hostile in that case. It was urged that she had also lodged FIR under Section 406, 498-A, 323 and 506 IPC against Ajit Pal, the petitioners and others, wherein after investigation, challan was filed only against Ajit Pal, Ram Sarup and Dayal Kaur and to widen the net, the complainant had filed the instant complaint and it was an abuse of the process of law.

Learned counsel for the complainant had taken an objection regarding maintainability of the petition. According to him, the second revision petition under the garb of Section 482 Cr.P.C. was not maintainable. He had averred that the complainant took divorce from her first husband and had settled with him and therefore she had resiled in the criminal case. It was submitted that the case registered under Section 498-A, 406, 323 and 506 IPC against husband and in-laws was on different set of allegations and the complainant was well within her rights to file the instant complaint, which was on different cause of action. He further averred that there was a conspiracy and the petitioners and other concealed the factum of the first marriage of Ajit Pal and got her married to Ajit Pal.

Broad guidelines have been framed by the Hon'ble Apex Court for exercise of powers under Section 482 Cr.P.C. in the case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, AIR 1992 SC 604, which read as under:-

*"105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter*

*XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised 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 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.*

*2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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 F.I.R. 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 a 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 a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*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.”*

**In Zandu Pharmaceutical Works Ltd. v. Mohd.**

**Sharaful Haque, AIR 2005 SC 9**, the Hon’ble Supreme Court

referred to many judgments on the point and observed as

follows:

*“The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. It if appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the*

*ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that even there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings.”*

Similar view point has been reiterated by the Hon'ble Apex Court in **State of Madhya Pradesh v. Awadh Kishore Gupta , (2004) 1 SCC 691**

The powers under Section 482 Cr.P.C. have to be exercised sparingly and with circumspection, that too in rarest of rare cases, which does not exist in the present case. It is apparent that there is a dispute regarding the marriage between the complainant and Ajit Pal. Case file shows that the complainant to prove that the marriage was performed with Ajit Pal in the preliminary evidence had examined the priest (CW3), besides some other persons, viz. Dhoop Singh, Vakil Singh, Jai Pal and Parveen, who claimed that they had attended the marriage and also the photographer who had taken the photographs. The petitioners on the other hand seriously dispute it. The Courts below on the strength of the evidence adduced by the complainant, *prima facie* found it sufficient to summon the petitioners. The issue regarding the marriage is a disputed

question of fact, which cannot be gone into by this Court in exercise of powers under Section 482 Cr.P.C. and would be subject matter of evidence that would come on record. No finding can be recorded on this issue in these proceedings. The other plea raised by the petitioners regarding pendency of another case under Section 323, 406, 498-A and 506 IPC and the circumstances under which Ramesh, the previous husband of the complainant and others were acquitted, cannot be gone into by this Court as any observation made may prejudice either of the parties. The case does not fall in any of the guidelines, referred to above, warranting interference by this Court.

No ground for quashing is made out. Dismissed. However, whatever has been observed hereinabove is without prejudice to the case on merit. The petitioners will be at liberty to raise all the pleas before the appropriate forum and at the appropriate stage.

**April 04,2016**  
Jiten

**(ANITA CHAUDHRY)**  
**JUDGE**