

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

CRL. MISC. No.M-1618 OF 2011
DATE OF DECISION : 18 JANUARY, 2017

Abdul Qayoom Dar

.... Petitioner

Versus

State of Punjab & another

.... Respondents

CRL. MISC. No.M-3243 OF 2011

Anita Devi @ Anita Kumari

.... Petitioner

Versus

State of Punjab & another

.... Respondents

CRL. MISC. No.M-6025 OF 2011

Sanjay Kumar Sharma

.... Petitioner

Versus

State of Punjab & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Birjesh Mittal, Advocate for the petitioner(s).

Mr. K. S. Sidhu, Deputy Advocate General, Punjab.

Mr. Saurav Verma, Advocate
for respondent No.2-complainant.

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A. B. CHAUDHARI, J.

1. In these petitions filed by the respective petitioners under Section 482 Cr.P.C. there is a prayer for quashing of FIR No.186, dated 07.05.2009 registered under Sections 420, 494 read with Section 120-B

IPC at Police Station Division No.6 (now Division No.7), Jalandhar and all consequential proceedings arising out of this FIR.

Facts:

2. The complainant-respondent No.2-Shyam Sunder Kapila resident of Nottingham, England filed the above said FIR, stating therein that he was mislead, misrepresented and cheated by all the petitioners herein. He submits in the FIR that he was mislead to marry Sunita Kumari from whom he has one son and whereas, as a matter of fact, she had already performed *Nikah* with petitioner-Abdul Qayoom Dar and was not a divorcee from him and thus the petitioner-Abdul Qayoom Dar committed offence of bigamy inter alia cheating etc. in conspiracy with other accused persons. The petitioners in these three petitions have put to challenge the said FIR on the ground that the story mentioned in the FIR is wholly impossible, improbable and the reading of the FIR do not make out any offence as mentioned in the FIR. Petitioner-Abdul Qayoom Dar has taken stand that assuming but not admitting any such marriage was performed by him, then even according to complainant-respondent No.2, the same was performed after conversion of Sunita Kumari to Islam. No offence of bigamy has been committed by him, since Islam permits four marriages. The petitioners have also raised several grounds in their petitions.

Submissions:

3. The learned counsel for the petitioners in all these three petitions has taken me through long drawn FIR filed by complainant-respondent No.2-Shyam Sunder Kapila and upon reading thereof

submitted that in the first place no specific role is attributed to the petitioners. Secondly, according to the learned counsel for the petitioners reading of the entire FIR itself shows that respondent No.2 indulged in marrying number of times and producing children when, as a matter of fact, he was married for the first time in the year 1975 and thereafter he was on the spree of giving divorce to his wives. According to learned counsel for the petitioners the luxury enjoyed by respondent No.2 shows his conduct which no one can afford. The counsel for the petitioners submits that apart, reading of the entire FIR nowhere shows that any offence has been made out against any of the petitioners and except putting their name in the FIR there is absolutely nothing supporting the allegation that the petitioners have committed any offence. According to him the FIR is sheer abuse of process of law and made just to harass the petitioners. The complainant is residing in Nottingham, England while all the petitioners are required to face prosecution pursuant to the lodgment of the FIR by the complainant. The counsel for the petitioners, therefore, prayed for quashing of the FIR and the consequent proceedings.

4. Per-contra, learned counsel for respondent No.2 vehemently opposed the petitions and submitted that the validity of the FIR will be decided by the trial Court and the detailed FIR cannot be quashed at this stage that too under the inherent power of this Court under Section 482 Cr.P.C. According to learned counsel for respondent No.2 the offences are clearly made out from the reading of the FIR and, therefore, no

interference is required to be made by this Court. He, therefore, prays for dismissal of the petitions.

Consideration:

5. I have heard learned counsel for the parties at length on a few dates. I have perused the entire record with assistance of learned counsel for the parties.

6. To appreciate the contentions raised by learned counsel for the rival parties, it will be appropriate to reproduce the entire translated FIR, which reads thus:

“To The Senior Superintendent of Police, Jalandhar.

Sub:- Application against Sunita Kumari W/o Abdul

Qayoom Dar d/o Puran Chand Sharma r/o 450, East

Park road elicester England, Pin LE5-5 HH, Abdul

Qayoom Dar S/o Late Sh. Mohd. Ramzan r/o 180-A

Subhash nagar Jammu and Sanjay Kumar S/o Sh.

Puran Chand Sharma R/o Rama Krishna Mission

Udhaywala, Jammu, Anita Kumari Sharma W/o Sh.

Sanjay Kumar Sharma r/o Rama Krishan Mission

Udhaywala Jammu for committing fraud. Sir, The

applicant respectfully submits as under:- 1. That

Shyam Sunder Kapila s/o Late Sh. Vasudev Kapila is

residing at No.8 Wallan Street, Nottingham, England

Pin Code NG-7 5ND Hall C/o Smt. Abhilash Katyal

255, New Deep Nagar Civil Lines, Ludhiana. 2.

That from 3.11.1976 the applicant shifted to England

to settle there permanently and from that date he is living at England and before it he was residing at H. No. 58, Green Park Civil Lines, Ludhiana. 3. That applicant got married with Manju Syal d/o Sh. Shiv Syal on May 1975 as per Hindu rites at Ludhiana. After marriage the wife of applicant Manju Syal lived at England as his wife and out of this wedlock a son Alwin Kapila was born on 10.04.1976. After few days of this marriage the applicant got divorce from his wife Manju Kapila because of difference in their views at England on 3.1.1979 and after that applicant contracted Second Marriage with Madhu Bala Prabhakar d/o Late Sh. Jagat Mittar Prabhakar R/o Pathankot on 25.04.1982 at Pathankot. After this Madhu Bala went to applicant's place in England in March 1983, out of this wedlock two children one daughter Soham Kapila was born on 3.2.1983 and one son Amit Kapila was born on 10.2.1987 & because of differences between them, he once again divorced his wife Madhu Bala in England in July 2000. 4. That in September 2002, applicant came in India for vacation & to meet his relatives and for few days he stayed at Pathankot at Vijay Prabhakaran's house who is uncle of applicant's wife Madhu Bala by relation. At that

time Sunita Kumari d/o Sh. Puran Chand Sharma r/o Jammu was also present there and she told him that she got married with Sh. Shammi Kapoor S/o Sh. Amar Singh R/o Kathua but she could not adjust with him as such from 1989 she is living separately and will seek divorce from her husband. Applicant after 2 weeks went to England from India. Sunita Kumari took his residential address and telephone number. After his going back to England, Sunita Kumari wrote letter and made telephone calls to the applicant. 5. That in March, 2003 applicant came to India, Sunita Kumari already knew this fact, Sunita Kumari and her brother Sanjay Kumar Sharma came at Delhi to receive applicant and from airport they took him to Jammu and arranged his stay at Aarti Hotel, Kanak Mandi Jammu. Thereafter Sunita Kumari and her brother Sanjay Kumar Sharma took him to their house and introduced him to their relatives. Sunita Kumari and her brother Sanjay Kumar Sharma knew this fact that applicant was a divorcee and wants to remarry. As such Sunita Kumar expressed her wish to marry him and told that within few days she will get divorce from Shammi Kapoor S/o Sh. Amar Singh. Applicant after staying at India for 18-20 days went back to England and he

remained in touch with Sunita Kumari and her relatives through correspondence and telephone calls. 6. That on November 2003 applicant received a telephone call from Sunita Kumari that she has got divorce from Shammi Kapoor on 9.11.2003, now she is free to remarry. Sunita Kumari and her brother Sanjay Kumar requested applicant to come to India & marry her and that marriage shall be solemnized at Jalandhar. 7. That on 01.12.2003 applicant came in India and stayed with his brother Prem Kumar Kapila r/o 6-A, Green Model Town Jalandhar. At Jalandhar in the presence of Prem Kumar Kapila, his family members & Friends, Sunita Kumari, her brother Sanjay Kumar Sharma and one girl which was introduced by Sunita Kumari as her daughter Anjali Kapoor came & informed that Sunita Kumari was married to Sh. Shammi Kapoor S/o Amar Singh Prop. S. K. Clinic, Shastri Nagar, Kathua and out of this wed lock, two daughters Anjali Kapoor and Suvidha Kapoor and boy Harshvardhan were born and that it was her first marriage with Shammi Kapoor and now on 09.11.2003 she has got divorce from him through Court and that she has not been married to anybody else. At that time Sunita Kumari, her brother Sanjay Kumar Sharma &

Daughter Anjali Kapoor who was about 17 ½ years of age and Anita Kumari Sharma w/o Sanjay Kumar Sharma assured before applicant, his brother Prem Kumar Kapila his friends that Sunita Kumari has very good character and she has no relation with any person and forced him to marry her. On questioning by Applicant and his brother Prem Kumar Kapila, Sunita Kumari and her brother Sanjay Kumar Sharma expressed their apprehension of disturbance by Sunita's previous husband Shammi Kapoor at Jammu as such marriage should be solemnized at Jalandhar. Believing them, applicant consented to marry Sunita Kumari at Jalandhar. On 3.12.2003 applicant got married with Sunita Kumari at Geeta Bhawan at Jalandhar as per Hindu rites & ceremonies & on 4.12.2003 this marriage was registered in the office of Register of Marriages Jalandhar, photo copy of the same is attached herewith. A photo copy of divorce decree of Sunita Kumari with her husband Shammi Kapoor is also attached. 8. That after marriage applicant and Sunita Kumari lived at England as husband and wife. Applicant called Sunita Kumari & her three children from first marriage to England & all of them reached England on 18.03.2004 and on 03.02.2005 one son

Kanhiya was born out of this marriage. 9. That after 18.03.2004 Sunita Kumari changed and started quarreling on one pretext as other but applicant used to tolerate it. That on 1-7-2005, Sunita Kumari left the house of the applicant & took her three children of her first marriage and also her son from this marriage. Before leaving the house, a telephone call come from India, applicant asked the caller his name address and reason of tele-call. The caller told that his name is Abdul Qayoom Dar r/o Jammu and expressed his desire to talk to Sunita Kumari who is his wife and her daughters & on questioning, he replied to applicant that he got married Sunita Kumari on 14.11.2003 at Jammu after she changed her religion. When the applicant asked Sunita Kumari about this, she admitted this fact and also showed applicant photographs of Abdul Qayoom and also that she changed her religion to Islam and her name as Jainab & then got married with to Abdul Qayoom Dar s/o Mohd. Ramzan by way of Nikah on 14.11.2003. After leaving house of applicant, Sunita kumari made false complaints before the police of England against the applicant, harassed him and got order of court for his eviction from the house. After this, applicant told the entire story to his brother

Prem Kumar, resident of Jalandhar & requested his brother at India to go meet Abdul Qayoom Dar R/o 180-A Subhash Nagar Jammu and inquire about his marriage. Prem Kumar met Abdul Qayoom Dar who admitted his extra-marital relation with Sunita Kumari since 1989 & that they stayed together. After that she adopted Muslim Religion and entered in Nikah with him on 14-11-2003. He gave photocopies of affidavit for changing of Muslim Religion, copy of Nikahnama, letters, photo negatives, receipts of telephone, letters written by her to Sh. Prem Kumar, photocopies of same are attached herewith and also told that she changed her name to Jainab & performed Nikah. **10.** That Sunita Kumari married applicant on 3.12.2003 according to Hindu Custom and before getting married, told herself Hindu and a divorcee whereas Sunita Kumari had already changed her religion to Islam on 14.11.2003 and had Nikah with Abdul Qauoom Dar on 14.11.2003 according to Muslim rites & rituals and that she had not divorced Abdul Qayoom Dar. Before marriage to the applicant Sunita Kumari, Sanjay Sharma who is the real brother of Sunita Kumari had also told Sunita Kumari a Hindu and a divorcee on 1-12-2003 whereas at that time Sunita

Kumari was not a Hindu, she was a Muslim and was already married to Abdul Qayoom Dar, so, Sunita Kumari, Sanjay Kumar Sharma and Abdul Qayoom Dar had together told a lie and by deceiving the applicant, got Sunita Kumari married to him on 2-12-2003 by telling that Sunita was Hindu when the fact was that she was neither Hindu nor divorcee at that time and she was the wife of Abdul Qayoom Dar at that time. 11. That had applicant knew the true fact that Sunita Kumari is neither Hindu nor divorcee, he would have never married her. 12. That Sunita Kumari and her brother Sanjay Kumar Sharma who has performed all ceremonies for her sister according to Hindu custom and gave his sister's hand in the hand of applicant had deceived him and hidden the truth from the applicant about Sunita's marriage with Abdul Qayoom Dar. 13. That Sunita Kumari and her brother Sanjay Kumar Sharma have concealed the truth from the applicant and convinced him that she had taken divorce from Shammi Kapoor and is Hindu and made the applicant to agree to perform marriage & cheated him. Sunita Kumari, Abdul Qayoom Dar & Sanjay Sharma had together deceived the applicant and gold and rupees 5 lac lying in State Bank of Ludhiana and Bank of India

Chandigarh in the account of the applicant were taken away by Sunita Kumari & her brother Sanjay Sharma also took the cheque (honored) signed by the applicant and Gold 10 Tolas by deceiving the applicant. It is requested that legal action be taken against Sunita Kumari w/o Abdul Qayoom Dar S/o Late Sh. Mohd Ramzan D/o Puran Chand Sharma, R/o 450, East Park road, Liester England, Pin Code – LE5-5HH, Abdul Qayoom Dar s/o Late Sh. Mohd Ramzan R/o 180-A Subhash Nagar Jammu and Sanjay Kumar Sharma s/o Sh. Puran Chand, R/o Rama Krishna mission Udhaywala Jammu, Anita Kumari Sharma w/o Sh. Sanjay Sharma R/o Rama Krishna Mission Udhaywala Jammu. I shall be thankful to you Sd/- applicant Sham Sunder Kapila s/o Late Sh. Vasudev Kapila r/o No.8 Wallan Street Nottingham England Pin Code NG7 5ND Hall C/o Smt. Abhilash Katyal, 255 New Deep Nagar, Civil Lines Ludhiana.”

7. A careful perusal of the above FIR shows that respondent No.2 shifted to England in the year 1976 and had married Manju Syal daughter of Shiv Syal in May, 1975. After birth of some children he divorced her on 03.01.1979. Thereafter, he contracted second marriage with Madhu Bala Prabhakar daughter of Jagat Mittar Prabhakar on 25.04.1982 from whom he had two children; one daughter and one son.

He also divorced Madhu Bala Prabhakar in England in July, 2000. Then he decided to marry Sunita Kumari in respect of whom the present matter arose. Sanjay Kumar Sharma petitioner in CRM-M No.6025 of 2011 is the brother of Sunita Kumari while Anita Devi @ Anita Kumari who is the petitioner in CRM-M No.3243 of 2011 is wife of Sanjay Kumar Sharma.

8. Upon reading of the FIR, it is clear that the complainant came to India in September, 2002 with a view to marry for the third time. He was knowing that Sunita Kumari had married with one Shammi Kapoor of Kathua. She had a divorce with Shammi Kapoor on 09.11.2003. Thus the complainant then performed marriage with Sunita Kumari who already had children from her first marriage with Shammi Kapoor. Thus respondent No.2 with open eyes and after making due enquiry about her divorce with Shammi Kapoor, married Sunita Kumari. He then went to England with Sunita Kumari and started residing with her in England. Not only that he called her three children from the first marriage, to England and started living with them. He has a son Kanhiya from Sunita Kumari born on 03.02.2005. Thereafter, according to complainant, Sunita Kumari had quarrel with him and left his house along with her children. It is further stated in the FIR that he had received telephone call made by a person from Indian. When he asked the name of the caller the name was told as Abdul Qayoom Dar resident of Jammu who allegedly stated that he had married with Sunita Kumari on 14.11.2003 at Jammu upon changing her religion to Islam. Thereupon the complainant instructed his brother Prem Kumar to find out the

position and that then Prem Kumar met Abdul Qayoom Dar who admitted his extra-marital relation with Sunita Kumari since 1989 and that they stayed together and further that on 14.11.2003 Sunita Kumari had performed Nikah with him (Abdul Qayoom Dar). It is further stated in the FIR that Abdul Qayoom Dar also gave photocopies of affidavit for changing to Islam namely Nikahnama, photos, etc. to Prem Kumar.

9. The allegations which are borne out from the FIR are that Sanjay Kumar Sharma brother of Sunita Kumari, knew the fact that complainant wanted to marry for the third time and therefore he approached him. The allegations against Anita Devi @ Anita Kumari wife of Sanjay Kumar Sharma, is that she and her husband had assured the applicant that Sunita Kumari has a very good character and she had no relation with any person and forced the complainant to marry Sunita Kumari.

10. Insofar as Abdul Qayoom Dar, is concerned, the only allegation is that the complainant received phone call from India and caller told his name as Abdul Qayoom Dar, and stated that he is the husband of Sunita Kumari. The next allegation is that Prem Kumar, his brother on verification got photocopies of the documents about Nikahnama, change of religion etc.

11. Now, insofar as Sanjay Kumar Sharma, is concerned, it would be appropriate to highlight the allegations against him in the FIR, which I quote hereunder:

“Thereafter Sunita Kumari and her brother Sanjay Kumar Sharma took him to their house and

introduced him to their relatives. Sunita Kumari and her brother Sanjay Kumar Sharma knew this fact that applicant was a divorcee and wants to remarry.”

12. Insofar as Anita Devi @ Anita Kumari wife of Sanjay Kumar Sharma is concerned, following are the allegations:

“At that time Sunita Kumari, her brother Sanjay Kumar Sharma & Daughter Anjali Kapoor who was about 17 ½ years of age and Anita Kumari Sharma w/o Sanjay Kumar Sharma assured before applicant, his brother Prem Kumar Kapila his friends that Sunita Kumari has very good character and she has no relation with any person and forced him to marry her.”

13. The allegations against both Sanjay Kumar Sharma and his sister Sunita Kumari, as mentioned at the end of the FIR, are reproduced hereunder:

“13. That Sunita Kumari and her brother Sanjay Kumar Sharma have concealed the truth from the applicant and convinced him that she had taken divorce from Shammi Kapoor and is Hindu and made the applicant to agree to perform marriage & cheated him. Sunita Kumari, Abdul Qayoom Dar & Sanjay Sharma had together deceived the applicant and gold and rupees 5 lac lying in State Bank of Ludhiana and Bank of India Chandigarh in the

account of the applicant were taken away by Sunita Kumari & her brother Sanjay Sharma also took the cheque (honored) signed by the applicant and Gold 10 Tolas by deceiving the applicant.”

14. Insofar as Abdul Qayoom Dar, is concerned, following are the allegations against him:

“Before leaving the house, a telephone call come from India, applicant asked the caller his name address and reason of tele-call. The caller told that his name is Abdul Qayoom Dar r/o Jammu and expressed his desire to talk to Sunita Kumari who is his wife and her daughters & on questioning, he replied to applicant that he got married Sunita Kumari on 14.11.2003 at Jammu after she changed her religion. When the applicant asked Sunita Kumari about this, she admitted this fact and also showed applicant photographs of Abdul Qayoom and also that she changed her religion to Islam and her name as Jainab & then got married with to Abdul Qayoom Dar s/o Mohd. Ramzan by way of Nikah on 14.11.2003. After leaving house of applicant, Sunita kumari made false complaints before the police of England against the applicant, harassed him and got order of court for his eviction from the house. After this, applicant told the entire story to his brother

Prem Kumar, resident of Jalandhar & requested his brother at India to go meet Abdul Qayoom Dar R/o 180-A Subhash Nagar Jammu and inquire about his marriage. Prem Kumar met Abdul Qayoom Dar who admitted his extra-marital relation with Sunita Kumari since 1989 & that they stayed together. After that she adopted Muslim Religion and entered in Nikah with him on 14-11-2003. He gave photocopies of affidavit for changing of Muslim Religion, copy of Nikahnama, letters, photo negatives, receipts of telephone, letters written by her to Sh. Prem Kumar, photocopies of same are attached herewith and also told that she changed her name to Jainab & performed Nikah.”

15. From the perusal of the above allegations qua Sanjay Kumar Sharma and Anita Devi @ Anita Kumari, are concerned, it is clear that Sanjay Kumar Sharma knew the fact that respondent No.2 was divorcee and therefore, he wanted to marry his sister with him. He was also told that Anita Devi @ Anita Kumari and Sanjay Kumar Sharma assured the complainant that Sunita Kumari had very good character and she had no relations with any one and forced him to marry her. Lastly, the allegations are that all of them thus cheated him.

16. Insofar as Sanjay Kumar and his wife Anita Devi @ Anita Kumari are concerned, in my opinion, there is absolutely no allegation against them in the FIR constituting the offences under Sections 420, 494

and 120-B IPC. In that view of the matter, qua Sanjay Kumar and his wife Anita Devi @ Anita Kumari, obviously the FIR against them will have to be quashed.

17. Insofar as Abdul Qayoom Dar, is concerned, the allegations have already been highlighted by me in the above paragraphs. Apart from that the allegation against Abdul Qayoom Dar is that respondent No.2-complainant received telephone call from India and caller gave his identity as Abdul Qayoom Dar and that the caller stated that he was married to Sunita Kumari by Nikahnama and she is his wife. In view of the allegations as alleged by the complainant in the FIR, merely except the caller telling his name as Abdul Qayoom Dar to complainant, there is no material and that is not sufficient to prosecute him for the offences for which the instant FIR was registered.

18. As to the delivery of the copies of documents of Nikahnama, letters, photo negatives etc. by Abdul Qayoom Dar to Prem Kumar brother of respondent No.2-complainant, the petitioner Abdul Qayoom Dar has categorically given in the petition the following explanation, which I quote hereunder:

“10. xxx..... That the petitioner thereafter verified from the o/o The Registrar of Nikah Auqaf Department islamia Jammu regarding the authenticity of the said NikahNama. To his shock and surprise, the petitioner was informed by the concerned authority that there was no such entry in the Nikah Aqaf Department Islamia Jammu pertaining to the registration of marriage between

Sunita Kumari with the petitioner Abdul Qayoom Dar and at Serial No. 31 of Register No.50 & that the marriage between Ali Hussain s/o Rahim Baksh & Kulsum Bibi D/o Mohd. Din which was solemnized on 19.02.2004 has been registered Serial No.31 of Register No.50, translated copy of the same is appended as ANNEXURE P-6. Thus the said NikahNama (P-5) furnished by complainant/respondent No.2 to the police authorities was thus forged and fake.

11. That further the petitioner also inquired & checked up from Ghulam Mohd. Whose name was mentioned on the fake NikahNama to the effect that he had got solemnized the marriage between Abdul Qayoom Dar and Sunita Kumari (Zainab-changed Muslim Name). That the said Sh. Ghulam Mohd. Has given an affidavit dated 20.09.2010 duly attested by the Executive Magistrate First Class, Budhal, District Rajouri (J&K) that he has never signed as a witness/solemnizer on the NikahNama, copy of the affidavit is appended as ANNEXURE P-7.

12. That the petitioner also places on record an affidavit dated 17.01.2011 of Shah Mohd., s/o Bag Ali, r/o Village korla Jagir who is IMAM Masjid, Subhash Nagar, Jammu, copy of the same is appended as ANNEXURE P-8, to the effect that he has been rendering services as IMAM Masjid, Subhash Nagar for last more than 10 years & also

performing the marriage ceremonies of the Muslim community who wish to get their marriage registered before Marriage Committee Auqaf Islamia Jammu and that he had performed the marriage ceremony of Muslim couple namely Ali Hussain s/o Rahim Baksh with Smt. Kulsum Bibi D/o Mohd. Din on 19.02.2004 as per Marriage certificate bearing Serial No.31 and the marriage certificate bearing Serial No.31 dated 15.11.2003 of Auqaf Islamia Jammu is fake, forged & is not issued.

13.xxx....xxx.... xxx....xxx.... xxx....xxx....

14.xxx....xxx.... xxx....xxx.... xxx....xxx....

15. That the impugned FIR No.186 dated 07.05.2009 U/S 420, 494 and 120B IPC registered at police Station Division No.6 Jalandhar deserves to be quashed by this Hon'ble High Court on the following grounds:-

(i) That the petitioner is a Muslim by religion and the Muslim Law in India confers upon a Muslim the existence and recognition of the institution of Polygamy i.e. a Muslim can have more than one wife at a time. Thus Section 494 of IPC as registered in the FIR against the petitioner is not applicable at all pursuant to the fact that the petitioner is a Muslim and the Muslim Law confers a right to have more than one wife at a time.

(ii) That the complainant/respondent no.2 in his FIR has alleged that Sunita Kumari who is a Hindu by

religion after her divorce with her first husband Shammi Kapoor on 9.11.2003 has converted to Islam and remarried the petitioner Abdul Qayoom Dar on 14.11.2003 i.e. just after 5 days of getting divorce from her first husband.xxx....xxx....xxx....xxx.”

19. From the above clarification tendered by Abdul Qayoom Dar in his petition, which has not been countered by respondent No.2-complainant, it is crystal clear that no offence can be said to have been made out against petitioner-Abdul Qayoom Dar as well.

20. Learned counsel for respondent No.2 concluded that the offence of bigamy has been committed by petitioner-Abdul Qayoom Dar. However, I find that there is not even any allegation in the FIR that Abdul Qayoom Dar had performed marriage after performance of marriage of Sunita Kumari with respondent No.2.

Conclusion:

21. To sum up, the entire FIR and its allegations do not make out any offence against the petitioners in any probability. Consequently, the FIR deserves to be quashed so also the consequential proceedings taken up pursuant thereto. In the result all these petitions must succeed. Hence I make the following order:

ORDER

22. The **CRL. MISC. No.M-1618 OF 2011, CRL. MISC. No.M-3243 OF 2011** and **CRL. MISC. No.M-6025 OF 2011** are allowed, on merits.

23. The FIR No.186, dated 07.05.2009 registered under Sections 420, 494 read with Section 120-B IPC at Police Station Division No.6

(now Division No.7), Jalandhar filed against petitioner-Abdul Qayoom Dar in CRL. MISC. No.M-1618 OF 2011, petitioner-Anita Devi @ Anita Kumari CRL. MISC. No.M-3243 OF 2011 and petitioner-Sanjay Kumar Sharma in CRL. MISC. No.M-6025 OF 2011, along with all consequential proceedings pursuant thereto, stand quashed and set aside.

24. No orders as to costs.

18 JANUARY, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No.