

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Criminal Misc. No.M- 850 of 2017(O&M)

Date of Decision: March 23 , 2017.

Nitin Ahluwalia PETITIONER (s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Simranjeet Singh Sidhu, Advocate
for the petitioner.

LISA GILL, J.

The petitioner seeks quashing of FIR No.65 dated 07.12.2016 under Section 498A IPC registered at Police Station Women, SAS Nagar.

It is submitted that the abovesaid FIR is a counter-blast to the custody of the minor child being granted to the petitioner. Respondent No.2 has illegally brought the minor child to India in June 2014. Both the petitioner and respondent No.2 are not Indian citizens. Petitioner is a citizen of Australia whereas respondent No.2 is a citizen of Austria. Exparte divorce has been obtained by the petitioner on 03.03.2016 in Australia. No offence is disclosed to have been committed in India though it is not been disputed that the marriage of the parties took place at Panchkula on 29.11.2010. The petitioner has admittedly not joined investigation. He is in Australia and is not on bail.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

Detailed and specific allegations have been raised in this FIR registered at the instance of respondent No.2 who is stated to be residing with her parents at Silver City Greens, Ambala-Zirakpur Highway. The matter is at the very initial stage of investigation. The petitioner is admittedly in Australia at this point of time and has not joined investigation. It is clearly too premature a stage for this Court to return a finding in respect to the sustainability of this petition and consequently quash the abovesaid FIR on the grounds sought to be raised by the petitioner. The Hon'ble Supreme Court in **Savita v. State of Rajasthan and others, 2005 (12) SCC 338** held that at the initial stage where the investigating agency had no occasion to find out whether there was material to file a charge-sheet or not, the High Court should not have interfered to quash the FIR. In Savita's case (supra), the FIR in question was quashed by the High Court taking into consideration certain statements made by the complainant in divorce proceedings between her and the accused, her husband. It was thus held by the High Court that no cognizable offence was disclosed in the said FIR. The Hon'ble Supreme Court proceeded to set aside the High Court order quashing the FIR in question and directed that investigation of the case be carried out in accordance with law.

Keeping in view the facts and circumstances of the case, no ground is made out for interference by this Court in exercise of jurisdiction under Section 482 Cr.P.C. at this stage.

The present petition is clearly premature. Disposed of accordingly.

The petitioner is obviously at liberty to bring-forth all these facts before the Investigating Agency.

March 23 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No