

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

CRR No.4852 of 2017

Date of Decision: January 18, 2018

Mahipal Gulia

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Perdhuman Yadav, Advocate
for the petitioner.

LISA GILL J. (ORAL)

The petitioner is aggrieved of the charge framed against him under Sections 498-A, 406 and 34 IPC on 07.10.2017.

It is submitted that the complainant in this case had earlier lodged FIR No.356 dated 13.08.2012 under Sections 365, 498-A and 506 IPC at Police Station City Bahadurgarh, District Jhajjar. The petitioner and the other accused were acquitted of the charges against them vide judgment dated 28.05.2013 by the learned Sub Divisional Judicial Magistrate, Bahadurgarh. Thereafter, the complainant in an absolutely *malafide* manner has raised allegations in respect to the same period and same incidents, on the basis of which FIR No.53 dated 16.03.2017 under Sections 498-A, 406 and 34 IPC (Annexure P-5) has been registered. Charge against the present petitioner has been framed under Sections 498-A, 406 and 34 IPC on 07.10.2017.

Learned counsel for the petitioner vehemently argues that the learned trial Court has failed to take into consideration the fact that having once been tried for the same incident in question, the petitioner could not be subjected to subsequent proceedings on the same grounds. Therefore, the impugned charge-sheet should be quashed.

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

Perusal of the decision dated 28.05.2013 vide which the petitioner along with other co-accused has been acquitted, reveals that the matter was amicably resolved between the petitioner and his wife-the complainant therein. Due to the said reason, the complainant did not support the prosecution version and was declared hostile. Accordingly, all the accused therein including the petitioner were acquitted of the charges levelled against them on 28.05.2013.

It is not in dispute that the petitioner and the complainant resumed matrimonial ties and had started living together again pursuant to the compromise between them. As per the allegations in FIR No.53 dated 16.03.2017 under Sections 498-A, 406 and 34 IPC, all the facts including the registration of the earlier FIR No. 356 dated 13.08.2012 under Sections 365, 498-A, 506 IPC have been faithfully mentioned. It is specifically stated by the complainant that when FIR No. 356 dated 13.08.2012 was registered, a compromise was arrived at between the parties with all the accused on an assurance given by them that she would be rehabilitated in the matrimonial home with love and affection. Matrimonial ties were resumed but however, demand of dowry was again

raised by the petitioner and his family. The complainant was pressurized to bring Rs.5,00,000/-. Specific allegations of physical abuse on 28.12.2015 have been raised. Reference is also made to the medical treatment received by the complainant and her minor son at General Hospital Bahadurgarh. It is apparent that after registration of the FIR in 2012, the matter was compromised, matrimonial ties between the petitioner and his wife were resumed and the accused in the said FIR were acquitted due to the stand of the complainant. However the complainant was again subjected to ill-treatment and harassment due to which the subsequent FIR was registered. Therefore it cannot be said at this stage that the petitioner is being tried again for a second time for the same offence for which he has already been acquitted.

Keeping in view the facts and circumstances, there is no illegality, infirmity or perversity in the framing of the charges against the petitioner as aforesaid, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed.

None of the observations made hereinabove shall be construed to be a reflection on the merits of the case and shall have no bearing on trial.

(LISA GILL)
JUDGE

January 18, 2018

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