

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-35758-2019 (O&M)
Date of Decision:- 10.12.2019

Avtar Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.K.S.Phoolka, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking quashing of FIR No. 77, dated 28.7.2017, registered at Police Station Gidderbaha, District Sri Muktsar Sahib, under Sections 498-A, 494 of IPC.
2. The FIR in question was lodged at the instance of Kulvir Kaur wherein it has been alleged that her marriage was solemnized with petitioner-Avtar Singh about 7 years back and a daughter namely Arshveer Kaur who is presently 6 years old was born out of the wedlock. It is alleged that the complainant's husband however, started harassing her but she kept on bearing her maltreatment in order to save her matrimonial home. It is alleged that now she had come to know that her husband i.e. Avtar Singh had got married to a lady namely Alka Rani who is being maintained by her in Bathinda. It is further alleged that her in-laws are also siding with her husband

and rather are pressing upon her to get her marriage dissolved by decree of divorce.

3. Learned counsel for the petitioner has submitted that vague allegations have been levelled in the FIR as far as the alleged harassment is concerned and in fact there is no evidence to establish the factum of marriage between the complainant and the petitioner and at best it is a case of live-in-relationship between the petitioner and the complainant.
4. I have heard the learned counsel for the petitioner. The matter was investigated by the police and pursuant to investigation challan was filed against the petitioner for offences under Section 498-A and 494 IPC and in fact charges have also been framed against the petitioner. A perusal of the FIR would reveal that the complainant has specifically alleged therein that she had been harassed by the petitioner. Although, learned counsel for the petitioner has vehemently argued that since the factum of complainant's marriage with the petitioner is not established, no offence under Section 494 IPC can be said to be made out but since the complainant has not only alleged that she had solemnized marriage with the petitioner but a child is also stated to have been born out of the wedlock who is presently stated to be aged 6 years and the said matter has been got investigated by police, it will be a matter of evidence as to whether the prosecution is fully able to establish the allegations as regards marital relationship between the parties and paternity of child or as to whether the accused in his defence is able to demolish the case of

prosecution. This Court is of the opinion that the allegations as levelled in the FIR do *prima facie* disclose commission of offences under Section 498-A and 494 IPC. As such no case for quashing of FIR is made out.

5. Finding no merit in the petition, the same is hereby dismissed.

December 10, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No