

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

**CRM-M-53467-2019 (O&M)**

**Date of decision: 08.11.2021**

Hardev Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Chanchal Kumar Singla, Advocate with  
Mr. Sushant Kareer, Advocate  
for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab  
for respondent No.1 -State.

Mr. N.S. Pawar, Advocate  
for respondent No.2.

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**MANJARI NEHRU KAUL, J. (ORAL)**

The instant petition has been filed for quashing of FIR No.0023, dated 19.06.2019, lodged under Sections 406 and 498-A IPC registered at Police Station NRI, Police Commissionerate Ludhiana and all consequential proceedings arising out of the same.

The factual matrix leading to the filing of the instant petition may be noticed as thus. The marriage of petitioner No.3-Varinder Singh was solemnized with respondent No.2-Harpreet Kaur on 21.07.2013 at Ludhiana. At the time of marriage, respondent No.2-wife was already a resident of Canada. After her marriage, respondent No.2-wife left for Canada. Subsequently, petitioner No.3 too joined his wife i.e. respondent No.2 at Canada. However, the marriage between them ran into rough weather as a result thereof, it ended in a divorce in Canada vide Annexure P-5 on 15.11.2018 which came into effect from

16.12.2018. It would be relevant to notice that prior thereto, dated 15.11.2018, a settlement (Annexure P-2 on 11.06.2018) was arrived at, between the parties and the terms and conditions, mutually agreed upon, were recorded in the Court order itself. On 19.06.2019, FIR in question was registered at the instance of respondent No.2 against petitioner No.3 as well as his parents i.e. petitioners No.1 and 2. In the said FIR, respondent No.2 levelled allegations against the petitioners that at the time of her marriage, a huge dowry which included gold jewellery as well as cash and other household articles etc. were given to her and in turn entrusted to the petitioners but the same was misappropriated by them. Despite her repeated requests to the accused petitioners, they refused to return her dowry articles etc. It was further alleged that though she left for Canada after marriage, however, when she subsequently visited India in March, 2014, as well as in December, 2015, she was subjected to mental and physical harassment for not getting sufficient dowry and in addition, a demand was made by the petitioners for a luxury car, cash etc. Still further, respondent No.2 alleged that it was she who spent more than Rs.10 lakhs for sponsoring the visit and Permanent Residency of her husband i.e. petitioner No.3 to Canada in August, 2014. However, once he got his Permanent Residency in Canada, he deserted her and also took along all her jewellery, cash and other valuables. She further alleged that when she last visited India some time in the end of the year 2017, the parents as well as the brother of petitioner No.3 harassed her by extending threats and not allowing her inside their home.

Vide order dated 06.02.2020 passed by this Court, the State as well as respondent No.2 were put on notice and further proceedings in the FIR in question were stayed.

Learned counsel for the petitioners at the outset has submitted that respondent No.2 moved a complaint to IGP Police NRI, Punjab Police Headquarters, Chandigarh on 26.12.2017 wherein the allegations as already noticed hereinabove were levelled against the petitioners, however, it was after one and half years, the FIR in question was registered. During the intervening period, it was a matter of record that not only was the marriage between petitioner No.3 and respondent No.2 dissolved by way of a decree of divorce in Canada but even the terms and conditions, which were mutually agreed upon by them and which found reflected in the order dated 11.06.2018 of Superior Court of Justice, Ontario, Canada (Annexure P-2) stood complied with. Inviting the attention of this Court to the aforementioned order passed on consent, it was submitted that it was clearly noticed therein that all outstanding claims not part of or dealt with in that order were dismissed.

Learned counsel has thus submitted that it was clearly discernible that respondent No.2 for reasons but obvious had intentionally concealed the factum of her divorce from the investigating agency as well as the compliance of all the terms and conditions by petitioner No.3, which had been mutually agreed upon by them. He submitted that the malafides not only on the part of respondent No.2 clearly stood exposed in the light of the aforementioned uncontroverted

facts but even an unholy nexus between respondent No.2 and the investigating agency could not be ruled out. To hammer-forth his contention qua the unholy nexus between the complainant-respondent No.2 and the investigating agency, learned counsel submitted that the statement of respondent No.2 under Section 161 Cr.P.C. was stated to have been recorded over the telephone by the investigating agency, however, the said statement which is part of the final report under Section 173 Cr.P.C. (Annexure P-6) strangely was undated coupled with the fact that there was a pregnant silence with respect to the divorce of respondent No.2 with petitioner No.3 at Canada. Inviting the attention of this Court to the contents of her statement recorded under Section 161 Cr.P.C., learned counsel submitted that in the aforementioned statement, respondent No.2 had claimed herself to be the wife of petitioner No.3 whereas as already submitted, the relationship of petitioner No.3 and respondent No.2 as husband and wife had already ceased to exist prior to the registration of the FIR, on 16.11.2018 vide Annexure P-5. Learned counsel submitted that assuming for the sake of arguments that the said statement under Section 161 Cr.P.C. had been recorded prior to the divorce between petitioner No.3 and respondent No.2, it reflected adversely on the quality and manner of investigation carried out by the investigating agency subsequent to the receipt of the complaint through post on 26.12.2017 as in the said statement she had claimed to be the wife of petitioner No.3 and in the changed circumstances post 16.12.2018, while presenting the challan, the least investigating agency should have

done was to mention the changed marital status of respondent No.2 and petitioner No.3. He also submitted that assuming yet again that the statement of respondent No.2, under Section 161 Cr.P.C. was recorded after the marriage between her and petitioner No.3 had been dissolved at Canada, it supported his contention that instant criminal proceedings were nothing but an attempt by respondent No.2 to unnecessarily harass and humiliate the petitioners as in the aforementioned statement under Section 161 Cr.P.C., respondent No.2 had falsely shown herself to be the wife of petitioner No.3.

Learned counsel submitted that even otherwise the allegations levelled in the FIR in question qua respondent No.2 being subjected to mental and physical harassment was nothing but a bundle of lies. It was submitted that it could not be believed that had respondent No.2 been actually subjected to physical assault both in India as well as in Canada, as alleged, she would not have been medically treated for the same and still further, being a Canadian Citizen she would have chosen not to report about the mental and physical harassment to the authorities concerned in Canada.

Learned counsel lastly submitted that the malafides on the part of respondent No.2 could be still further inferred from the fact that she was pursuing a proxy litigation through her special power of attorney as ever since her divorce in 2018, she had not visited India coupled with the fact as already urged earlier, her statement under Section 161 Cr.P.C. was recorded telephonically. A prayer was made for quashing of the FIR and other consequential proceedings as it was

abundantly clear that they had been maliciously instituted with an oblique motive.

Learned State counsel assisted by learned counsel for respondent No.2 while opposing the submissions and prayer made by the counsel opposite urged that the petitioners had subjected respondent No.2 to continuous mental and physical harassment ever since her marriage with petitioner No.3 in the year 2013. It was submitted that even though respondent No.2 sponsored the visit and Permanent Residency of petitioner No.3 for Canada, she was not spared. All her dowry articles were misappropriated by the accused petitioners. As and when she requested the accused petitioners to return her dowry articles, she was threatened with dire consequences and on a few occasions even inflicted injuries. Learned counsel contended that it was in fact a conspiracy hatched by all the accused to not only fulfill their lust for dowry but also to procure Permanent Residency of Canada through respondent No.2, as she was a Canadian Citizen.

Heard learned counsel for the parties and perused the material on record.

Coming to the case in hand, it is not disputed by either of the parties that on the date of the registration of the FIR in question, the marriage between petitioner No.3 and respondent No.2 already stood dissolved by way of a decree of divorce in Canada. It has also not been disputed much less controverted by the counsel for respondent No.2 that the divorce granted to the parties (petitioner No.3 and respondent No.2) in the year 2018 was on an uncontested basis coupled with the

fact that the terms and conditions which were mutually agreed upon between the parties concerned already stood complied with. The submissions made by learned counsel for the petitioners that the FIR in question which was admittedly registered after the divorce granted to petitioner No.3 and respondent No.2, smacked of malafides, does not seem to be meritless. This Court does find it extremely strange that in her statement recorded under Section 161 Cr.P.C. over the phone from Canada, respondent No.2 levelled allegations against the petitioners including 'her husband' i.e. petitioner No.3 with respect to the mental and physical harassment meted out. Recording of a statement under Section 161 Cr.P.C. over the telephone may not be faulted with, as it is an unsigned statement, however, non-mentioning of the date on which such statement was recorded, does raise eye brows and a big question mark on the conduct and an apparent unholy nexus between the investigating agency and the complainant party. Since the FIR in question was registered after the divorce of petitioner No.3 from respondent No.2, this Court fails to comprehend as to how the investigating agency would have been unaware about this fact at the time of the presentation of challan. Assuming that the factum of divorce was concealed by respondent No.2 from the investigating agency, it then lends credence to the submissions made by learned counsel for the petitioners that respondent No.2 was indeed indulging in a proxy litigation through her special power of attorney with an oblique motive to wreak vengeance on her former husband and his family. Learned State counsel on being pointedly questioned qua the date on which the

statement under Section 161 Cr.P.C. was recorded, fairly conceded that there had indeed been unexplained lapses on the part of the investigating agency in this regard.

This Court is constrained to observe that of late it has come to the fore that the investigating agency while dealing with complaints for offences under Section 406, 498-A IPC, particularly involving NRIs, has been registering criminal cases without as much as even carrying out preliminary inquiry into the allegations levelled. No doubt, the object behind the insertion of Section 498-A was to protect married women from being subjected to mental and physical cruelty, by her husband and his relatives, however, unfortunately, in some cases the provisions of Section 498-A IPC are being grossly misused. Not only this, it has also been noticed that just to settle personal scores, exaggerated and false allegations are being levelled to implicate as many relatives of the husband without there being any shred of evidence to even remotely connect them with the alleged instances of cruelty. It, therefore, becomes all the more incumbent upon the investigating agency to desist from registering criminal cases in a mechanical manner. This case is yet again a glaring example of cryptic rather tainted investigation. In the facts and circumstances of the case, this Court has no hesitation to observe that the FIR in question has been instituted against the petitioners seemingly to spite them and with an ulterior motive to wreak vengeance. The timing of the registration of the FIR in question i.e. after the decree of divorce had been granted to petitioner No.3 and respondent No.2 coupled with the fact that

respondent No.2, who is a Canadian Citizen had not even visited India subsequent to her divorce on 16.12.2019 and had been pursuing the present case through her special power of attorney speaks volumes of the malafides behind the institution of criminal proceedings against the petitioners.

On an evaluation of the facts and circumstances as enumerated hereinabove, this Court has no hesitation to conclude that the continuation of criminal proceedings would be nothing but an abuse of the process of law and thus, a futile exercise. This Court, therefore, deems it fit to quash the FIR in question and put a lid on all the consequential proceedings arising out of the same.

Accordingly, present petition is allowed and FIR No.0023, dated 19.06.2019, lodged under Sections 406 and 498-A IPC registered at Police Station NRI, Police Commissionerate Ludhiana and all consequential proceedings arising out of the same, are quashed.

**08.11.2021**  
Vinay/sonia

**(MANJARI NEHRU KAUL)**  
**JUDGE**

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