



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

115

CRWP-2140-2024**Date of decision: May 23, 2024****GIRISH CHANDRA**

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Himmat Singh, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant petition has been filed under Article 226 and 227 of the Constitution of India read with Section 439 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0002 dated 04.03.2016 under Sections 420, 465 of the Indian Penal Code, 1860, registered at Police Station NRI, Ferozepur along with all consequential proceedings arising therefrom, including Final report under Section 173 of the Cr.P.C. dated 23.08.2018 under Sections 420, 465, 498, 495-A IPC and order dated 12.02.2024 passed by the learned Chief Judicial Magistrate, Ferozepur, directing charges under Sections 418, 495, 465, 467, 468 and 471 of the IPC to be framed against the accused.

2. Learned counsel for the petitioner contends that on 01.12.1994, the petitioner arrived in India to arrange his marriage and was introduced to Rashmi Khajuria. Although they agreed to marry, the marriage did not take place due to the petitioner's time constraints. On 15.12.1994, Rashmi Khajuria's lawyer obtained a marriage certificate without any ceremonies or applications from either party, and it was issued without their knowledge or signatures. The

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petitioner then returned to Malaysia on the same day. On 02.02.1995, Rashmi Khajuria informed the petitioner that she no longer wished to marry. Subsequently, the petitioner returned to India, and both parties swore an affidavit before the Executive Magistrate in New Delhi, confirming that no marriage had taken place. On 27.11.1995, the petitioner married Jyoti Sharma, the sister of the complainant, in Ferozepur according to Hindu rites. The marriage was registered, and Jyoti accompanied the petitioner to Malaysia where he was based. They had a son in the year 2007. In November 2014, Jyoti left the matrimonial home with their son to live with her boyfriend, leading to custody litigation of their son and divorce proceedings. On 27.05.2015, Jyoti filed an affidavit in the Malaysian High Court, stating she was aware of the petitioner's alleged previous marriage. Between September 2015 and February 2016, the petitioner received an email from DSP Ferozepur regarding a criminal complaint dated 18.09.2015, filed by his brother-in-law i.e. respondent 2/complainant. The petitioner responded and provided the necessary information, and also questioning the direct approach by the police without proper procedure since he was a foreign national. On 17.01.2017, the petitioner was granted custody of his child after an investigation revealed the child was abused by his wife and her boyfriend. On 23.08.2018, a chargesheet was filed against the petitioner under Section 420 IPC. The petitioner and Jyoti obtained a divorce in the Malaysian High Court. On the night of September 23-24, 2022, the petitioner was arrested in Kolkata, based on a Look Out Circular (LOC), and handed over to the Punjab police but was later granted bail on 07.10.2022. In January 2023, the petitioner approached the Hon'ble Delhi High Court seeking documents related to his alleged marriage with Rashmi. The petition

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was allowed, however, later it was revealed that the documents were no longer in existence. On 05.12.2023, the petitioner approached this Court through CWP-27318-2023, seeking quashing of the FIR, chargesheet dated 23.08.2018, and the order framing charges. The petition was withdrawn with liberty to pursue alternative remedies.

3. It has been vehemently argued by the learned counsel for the petitioner that no marriage in fact, took place, between the petitioner and Rashmi Khajuria, which is evidenced by the lack of proof and corroboration. The marriage certificate (Annexure P-22) contains forged signatures, as confirmed by his own forensic expert (Annexure P-23). Despite this, the police and Court did not consider this expert opinion, while framing charges. The continuation of the FIR would, therefore, serve no useful purpose since the petitioner's marriage with the complainant's sister has now been dissolved. The charges framed also lack the necessary ingredients to constitute the alleged offences, which the trial Court erroneously ignored.

4. Upon hearing learned counsel for the parties and perusing the material placed on record, this Court does not find any merit in the submissions and arguments presented by the learned counsel for the petitioner.

5. In the landmark case of ***State of Haryana Vs. Ch. Bhajan Lal***, ***AIR 1992 SC 604***, the Hon'ble Supreme Court outlined the circumstances, under which the inherent powers under Section 482 Cr.P.C. may be exercised to quash an FIR. The guidelines ensure the prevention of legal process abuse and protection against wrongful prosecution while avoiding arbitrary quashing of FIRs. The Hon'ble Supreme Court also emphasized that while quashing of an FIR, meticulous scrutiny and appreciation of the allegations levelled cannot be

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gone into; judicial prudence and restraint should be exercised with minimal pre-trial intervention, reserving quashing of FIR only for clear-cut cases wherein there is an apparent miscarriage of justice.

6. Additionally, it would also be pertinent to point out that a previous petition seeking similar relief by the petitioner was dismissed as withdrawn by this Court, in view of a prayer made by the petitioner to pursue alternative remedies. Further, the trial is now at an advanced stage; the arguments presented by the learned counsel for the petitioner, including the veracity of his claims regarding certain documents having been forged and fabricated and also false allegations levelled against him would be evaluated by the learned trial Court, when both parties present their respective evidence, which would then be tested on the touchstone of cross-examination. Therefore, no grounds are established to quash the FIR in question.

7. Accordingly, the instant petition stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

May 23, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No