

Neutral Citation No. 2024:PHHC:071664

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

1. CRM-M-19603-2021 (O&M)

Gurbrinder Singh Dhillon ...Petitioner

Versus

State of Haryana and another ...Respondents

2. CRM-M-35727-2021 (O&M)

Rachhpaul Singh and another ...Petitioners

Versus

State of Haryana and another ...Respondents

Reserved on 15.04.2024
Pronounced on : 22.05.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Ahluwalia, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. G. S. Sandhu, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J.

1. This common order shall dispose of the aforementioned two petitions as they arise out of the same FIR.
2. The instant petitions have been filed by the petitioners, who husband, father-in-law and mother-in-law of the niece of respondent

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No. 2 respectively, under Section 482 of Cr.P.C., seeking quashing of FIR No. 78 dated 30.11.2020 (Annexure P/1), under Sections 323, 406, 498-A and 506 of IPC at Police Station Assandh, District Karnal along with all the consequential proceedings having emanated therefrom including Final Report (Annexure P-2).

3. Brief facts of the case relevant for the purpose of disposal of these petitions are that the aforementioned FIR had been registered against the petitioners on the basis of a written complaint filed by respondent No. 2/complainant Baldev Singh alleging therein that the marriage of his niece Kulwinder Kaur daughter of Hardev Singh was solemnized with petitioner Gurbrinder Singh on 10.08.2015 as per Sikh rites and rituals at Karnal. Prior to her marriage, she had been residing in America. The marriage of his niece was finalized through Harvinder Kaur and Harjit Singh, who acted as mediators for the said matrimonial alliance. Sufficient dowry was given in the marriage. However, after the marriage, the accused persons taunted the victim on account of bringing insufficient dowry. In this regard, the complainant had moved a complaint before the Police Station Moonak, District Sangrur on 08.05.2019, whereupon the matter was compromised between the parties, in pursuance of which, the accused persons got prepared demand draft of Rs. 25 Lakhs on 29.05.2019 in the name of Kulwinder Kaur. The said demand draft was handed over to the aforesaid mediators. It was agreed between the parties that the demand draft will be got renewed after three months but the same was not done. When the complainant asked for a copy of the said demand draft, then they started making excuses on one pretext or the other. Several *panchayat* meetings

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were convened but the accused persons did not renew the demand draft and proclaimed that they would not pay anything to the complainant party and challenged the complainant to do whatever he could do, as the complaint filed before the Moonak police had already been withdrawn by the complainant.

4. As per the further allegations, the complainant moved another complaint on 24.02.2020 before the Superintendent of Police, Karnal. However, the matter was again compromised at Police Station Women, Assandh and it was decided that as and when petitioner Rachhpal Singh, father-in-law of the victim, would return from America, they would get the demand draft renewed and would hand over the same to the victim in lieu of maintenance. However, even after the return of Rachhpal Singh and his wife Daljit Kaur to India, the demand draft was not renewed and on asking of the complainant, the accused persons, namely Racchpal Singh, Daljit Kaur, Harvinder Kaur and Harjit Singh threatened them with dire consequences. They proclaimed that their only motive to get the complaint withdrawn by the complainant was that Amrit Kaur and Arshdeep Singh, sister-in-law and brother-in-law of the victim, could go to Canada without any hurdle. The accused persons also extended threat to the complainant by saying that if they would take any action against them, they would get them finished. They also refused to give the settlement amount of Rs. 25 Lakhs to the victim. While submitting that the accused persons have cheated them as their only motive was to send the petitioner Gurbrinder Singh to America, as the victim was a green card holder and the compromises were effected by them with the complainant party only with a view to save themselves from

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any legal action, the complainant prayed for taking action against the culprits on his complaint dated 24.02.2020. A case under Sections 323, 406, 498-A and 506 of IPC was registered. Investigation proceedings were initiated. The petitioners were granted bail. During the course of investigation, the allegations levelled against accused Gurbrinder Singh, Racchpal Singh and Daljit Kaur, who are the present petitioners, were found to be true, whereas accused Harvinder Kaur, Harjit Singh and Amritpal Kaur were found to be innocent. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was present in the Court against accused Racchpal Singh and Daljit Kaur, whereas qua petitioner Gurbrinder Singh, it was stated that a supplementary *challan* under Section 173(8) of Cr.P.C. will be presented as a look out circular was issued against him. Subsequently, vide order dated 03.08.2021 passed by this Court, on the direction of this Court, the petitioner Gurbrinder Singh Dhillon had appeared before the trial Court and had been released on bail. The trial against the petitioners is pending.

5. The present petition has been filed by the petitioners on the ground and it has been argued by their counsel that they have been falsely implicated in this case. The only allegation in the FIR with regard to invocation of Section 498-A of IPC is that the victim was taunted by the accused persons for not bringing sufficient dowry. As such, the provisions of Section 498-A of IPC were not at all attracted in the matter. Even the allegations with regard to invocation of offences under Sections 323, 406 and 506 of IPC are patently false. After the marriage, petitioner Gurbrinder Singh had left India for America on 17.11.2017 and he never came back to

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India before registration of the FIR. Even the victim along with her minor child was also in America at the time of registration of FIR. However, the FIR in question had been registered on the basis of a complaint filed by her uncle Baldev Singh with a view to extract money from the petitioners.

6. It is further argued that in a compromise initially effected between the parties, it was decided that the parties will file a divorce petition on the basis of mutual consent and lieu thereof, an amount of Rs. 25 Lakh was agreed to be paid to the victim by her husband as full and final settlement of the maintenance, alimony etc. However, since the victim did not come forward to file the divorce petition, the demand draft of Rs. 25 Lakhs, which was deposited with the aforesaid mediators for handing it over to the victim at the appropriate stage, was not renewed. The complainant had very cleverly concealed the factum of the order of child and spousal support dated 20.10.2020 (Annexure P/6) as passed by the Court Circuit Court of Loudoun County, according to which, the petitioner-husband had to pay USD353 per month as child support and USD825 per month as spousal support. It was only the greed on the part of the complainant, who is uncle of the victim, that he had got lodged this FIR in India with false allegations and never disclosed to the police that the said demand draft of Rs. 25 Lakhs was with a condition that the parties would file a divorce petition with mutual consent and it is the victim, who had not complied her part of settlement.

7. Learned counsel for the petitioners has further argued that when the victim stepped back from filing a joint divorce petition, petitioner Gurbrinder Singh Dhillon had filed a divorce petition before the Circuit Court of Fairfax County (Annexure P/7). So far, the petitioner-husband has

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paid an amount of about Rs. 21 Lakhs as child and spousal support. Even the custody matter of the minor son was decided by the Circuit Court of Loudoun Country, whereby it was decided that father and mother will have joint custody of the minor child and the temporary physical custody of the minor would be with the mother subject to father's visitation rights. It is further submitted that ultimately the marriage between the parties stood dissolved on 08.02.2021 by a decree of divorce granted by the Circuit Court of Loudoun County and the right and possession of the properties of the parties was also decided, vide Annexure P/9. Even otherwise, both the parties were based in America at the relevant time and they had invoked the jurisdiction of Courts at America for adjudication of their disputes but the complainant had got registered this FIR in Karnal, which is bad in law. More so, no sanction from the Central Government was sought before lodging of the FIR, which was mandatory as per Section 188 of Cr.P.C. With these broad submissions, it is argued by learned counsel for the petitioners that the petition deserves to be allowed and the impugned FIR deserves to be quashed qua the petitioners.

8. *Per contra*, learned State counsel, assisted by learned counsel for respondent No. 2/complainant, has argued that the investigation in this case has since been completed. Preliminary inquiry was conducted in the matter and thereafter on finding the allegations as levelled against the petitioners herein to be true, they were nominated as accused in this case, whereas accused Harvinder Kaur and Harjit Singh were found to be innocent. *Challan* qua petitioners Racchpal Singh and Daljit Kaur had been presented in the Court and the trial had commenced but no effective

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proceeding could take place as a direction was issued by this Court to the trial Court to adjourn the case beyond the date fixed before this Court, which is still continuing. As mentioned above, since petitioner Gurbrinder Singh Dhillon was in America, *challan* qua him was not presented and thereafter on return to India, on the direction of this Court, vide order dated 03.08.2021, he had appeared before the trial Court and was granted benefit of bail. It is further argued that since the petitioners had committed the subject offences against the victim when she stayed with them in India, therefore, the case do not fall within the scope of Section 188 of Cr.P.C. and there was no necessity of any sanction. It is further argued by learned State Counsel, assisted by learned counsel for respondent no.2/complainant, that there are specific and serious allegations against the petitioners. While submitting that no case has been made out to quash the impugned FIR, it is argued that the present petition is liable to be dismissed.

9. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

10. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such

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power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as *State of Haryana Vs. Bhajan Lal : 1992 SUPP (1) SCC 335*, wherein Hon'ble Supreme Court has discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

“102 (1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

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(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

11. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon’ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reliance can further be placed upon ***State***

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of Andhra Pradesh vs. Gourishetty Mahesh and others, 2010 Criminal Law Journal 3844, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

12. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In *Dr. Monica Kumar and another vs. State of U.P. and others, (2008) 8 SCC 781*, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice.

13. Having noticed the scope of interference by this Court in petitions relating to quashing of FIR/chargesheet, let us refer to the facts of the present case, as per which, the petitioners, who are husband, father-in-law and mother-in-law respectively of the victim, had subjected her to harassment on account of unlawful demand of dowry, had criminally misappropriated her *stridhan* in connivance with their son, had extended beatings to her and had criminally intimidated the complainant party. In view of the backdrop of the allegations in the FIR and the contentions as raised by the parties, in my considered opinion, the first and foremost

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question that requires determination in this case is as to whether the allegations as levelled against the petitioners are such which can be considered to be specific in nature or they are general and omnibus in nature. However, before delving into the details of the contents of the allegations made, it is relevant to mention here that the petitioners have been booked and *challaned* for commission of offences punishable under Sections 323, 406, 498-A and 506 of IPC. Section 498-A of IPC was incorporated with the aim to prevent cruelty committed upon woman by her husband and in-laws, by facilitating rapid state intervention. It, however, cannot be ignored that there is increased tendency to the alarming extent in applying the provisions of Section 498-A of IPC. In the landmark judgment of Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar and another, (2014) 8 SCC 273***, it was observed that there is a phenomenal increase in matrimonial disputes in recent years. Section 498-A of IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. However, the fact that Section 498-A of IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by the disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. There is increased tendency of implicating relatives of the husband in matrimonial disputes without analyzing the ramifications of a trial on the complainant as well as the accused. False implication by way of general, omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of process of law.

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14. At this juncture, it would be proper to refer to the provisions of Section 498-A of IPC which read as under:-

"498-A. Husband or relative of husband or a woman subjecting her to cruelty. - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

The 'Explanation' appended thereto defines cruelty to mean : (i) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or (ii) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

15. Thus, the essential ingredients of the aforementioned provision are:

1. A woman must be married.
2. She must be subjected to cruelty.
3. Cruelty must be of the nature of :
 - (i) any willful conduct as was likely to drive such woman:
 - a. to commit suicide;
 - b. cause grave injury or danger to her life, limb, either mental or physical;
 - (ii) harassment of such woman, (1) with a view to coerce her to meet unlawful demand for property or valuable security, (2) or on account of failure of such

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woman or by any of her relation to meet the unlawful demand,

(iii) woman was subjected to such cruelty by : (1) husband of that woman, or (2) any relative of the husband.

16. On considering the allegations as levelled in the FIR lodged by the respondent No.2, I am of the considered opinion that the same cannot be considered to be even *prima facie* sufficient to enable this Court to arrive at a conclusion that the petitioners have committed any offence punishable under Section 498-A of IPC. It is not in dispute that the marriage of petitioner Gurbrinder Singh Dhillon took place with the niece of the complainant on 10.08.2015 at Karnal. Prior to her marriage, she had been residing in America and the marriage was finalized through Harvinder Kaur and Harjit Singh. The FIR in question had been registered by the uncle of the victim by making a one line allegation that after marriage, the accused persons had taunted her on the pretext of bringing lesser dowry. It is nowhere stated that if there was any demand of dowry by the petitioners or not ? Even no specific date, time or month had been mentioned when the victim was taunted by the petitioners. The parents-in-law were admittedly living India. There is not even a whisper of the word as to how long the victim lived in India with them after her marriage. In the entire FIR (Annexure P-1) as well as in *Challan* report (Annexure P-2), there is no allegation of subjecting the victim to harassment and cruelty on account of demand of dowry. More so, the allegation so levelled against the petitioners of taunting the victim on account of bringing insufficient dowry does not disclose that any act on their part was likely to drive the victim to commit

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suicide, which is one of the essential ingredients with regard to commission of offence under Section 498-A of IPC. These allegations also do not suggest that the cruelty allegedly inflicted upon the victim was of the nature of any willful act, which was likely to drive the victim to commit suicide or to cause any grave injury or danger to her life, limb either mental or physical. Rather, it is vague, general and omnibus in nature. Upon considering all the relevant circumstances, I am of the considered opinion that the allegations do not disclose that the victim was harassed by the present petitioners on account of any demand of dowry or she was subjected to cruelty of such nature so as to drive her to commit suicide. As such, it is held that the proceedings initiated against the petitioners under Section 498-A of IPC including charge framed against them under this section are liable to be quashed.

17. So far as the allegations invoking the provisions of Sections 323, 406 and 506 of IPC are concerned, there are again no allegations of such nature which could attract the provisions of these sections as it is nowhere mentioned that the victim was ever caused hurt by either of the petitioners; her any dowry articles/*stridhan* was criminally misappropriated by the petitioners or she was every criminally intimidated by them. Although, the complainant is shown to have prayed to the police to take action on his complaint dated 24.02.2020 but it is also apparent that the matter was subsequently compromised between the parties and the contents of the said complaint have not been made part of the present FIR. Therefore, this Court is bound to take into consideration the contents of the FIR in

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question only. Therefore, no prima facie case is made out under Sections 323, 406 and 506 of IPC as well.

18. The complainant, after making a one line allegation of his having been taunted by the petitioner on account of bringing insufficient dowry, had narrated about a demand draft of Rs. 25 Lakhs, which was got prepared by the petitioners on 29.05.2019 in the name of bride, which was deposited with the aforesaid Mediators and was to be handed over to the victim at relevant time. The entire FIR mentions about the fact that the said demand draft was not renewed by the petitioners after its expiry, which was in fact agreed to be done. The complainant alleged that by not paying the said amount by way of not renewing the demand draft, the accused persons had cheated them, whereas the plea taken by the petitioners is that the said demand draft of Rs. 25 Lakhs was got prepared as full and final settlement towards the victim and was to be handed over to her only when a joint divorce petition had been filed before the competent Court but since the victim never came forward to do so, it was never renewed. A perusal of mutual compromise dated 25.05.2019 (Annexure P-3) shows that it was agreed between the parties that the petitioners will get issued a demand draft of Rs. 25 Lakhs in the name of victim Kulwinder Kaur, which will remain deposited with the mediators Harvinder Kaur and Harjit Singh and it will be handed over to the complainant after the mutual divorce of petitioner Gurbrinder Singh Dhillon and victim Kulwinder Kaur. Hence, the plea of the petitioners finds force that since the victim did not come forward to file a joint petition for divorce with mutual consent, the said demand draft was not renewed. The plea of the petitioner-husband also sounds reasonable that

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when the victim stepped back from filing a joint divorce petition, he had filed a divorce petition before the Circuit Court of Fairfax County (Annexure P/7) and so far he has paid an amount of about Rs. 21 Lakh as child and spousal support. Meaning thereby, the complainant was trying to arm twist the petitioners for making aforesaid payment of Rs. 25 Lakh by way of filing complaints before the police in India, whereas his niece and her husband were availing their legal remedies before the Courts in America. All this goes to show that the complainant had got lodged the FIR with vague, general and omnibus allegations and with ulterior motives.

19. Both the parties were admittedly staying in America. A decree of divorce has already been passed by the Circuit Court of Loudoun County on 08.02.2021 (Annexure P-9) dissolving the marriage between the parties and all the claim are shown to have been settled between them. A perusal of Annexure P-9, which a certified copy of the final order passed the aforesaid Court, reveals that any claim was left to be settled between them or with the family members or relatives of the husband. The terms of property division are also shown to have been settled in this decree of divorce.

20. In ***B. S. Joshi vs. State of Haryana : 2003 (2) RCR (Criminal) 888***, Hon'ble Apex Court had observed that if the FIR in a case under Section 498-A of IPC does not disclose specific allegations against the accused, more so against his family members, especially in a matter arising out of a matrimonial bickering, it would be clear abuse of process of law and judicial system to send the mentioned accused in FIR to undergo trial and in such cases, the Court would be justified in quashing the proceedings. The very fact that the victim stayed in India for less than a week just after her

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marriage and then in the second instance for about 29 days in September, 2012 and further that she obtained divorce from the Court at British Columbia is sufficient to hold that the criminal proceedings should be quashed. Reliance in this regard can be placed upon *Partap Singh and another vs. State of Punjab and another 2010 (14) RCR (Criminal) 465* and *Bahadur Singh and others vs. State of Punjab and another : 2010 (3) RCR (Criminal) 252*.

21. As such, it emerges that the allegations as levelled in the FIR, even on given face value and taken to be correct in their entirety do not make out any offence as against the petitioners. *In Onkar Nath Mishra and others v. State (NCT of Delhi) and another, 2008 (1) RCR (Criminal) 336* and *Devendra and others v. State of U.P. and another, 2009 (7) Scale 613*, it was observed by Hon'ble Supreme Court that when the allegations made in the FIR or the evidence collected during investigation, do not satisfy the ingredients of offences, the superior courts would not encourage harassment of a person in a criminal Court for nothing.

22. Given the totality of the facts and circumstances, I am of the considered opinion that the allegations as levelled by the complainant against the petitioners, as they are, are wholly insufficient and *prima facie*, do not make out a case against them. As such, permitting the criminal process to go on against the petitioners in such a situation, would, therefore, result in clear injustice and hence, it is a fit case for this Court to exercise its inherent powers under Section 482 of Cr.P.C. and to quash the FIR and consequential proceedings as against the petitioners and it would be unjust to force them to face the ordeal of the trial for commission of the

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aforementioned offences. Accordingly FIR No. 78 dated 30.11.2020 (Annexure P/1), under Sections 323, 406, 498-A and 506 of IPC at Police Station Assandh, District Karnal and the consequential proceedings arising therefrom, are ordered to be quashed qua the present petitioners only and the petitions stand allowed.

23. Miscellaneous application(s), if any, also stand disposed of.
24. Let a photocopy of this order be placed on the file of the connected case.

22.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>
