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

CRM-M-40280-2014

Date of Decision: 05.04.2024

MALKIAT SINGH

...Petitioner

Vs.

STATE OF PUNJAB & ANR

...Respondents

CORAM:- HON'BLE MRS. JUSTICE NIDHI GUPTA

Present: Mr. Jaideep Verma, Advocate for the petitioner.
Ms. Aakansha Gupta, AAG, Punjab

NIDHI GUPTA, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 23 dated 31.03.2000 (Annexure P-3) under Section 406, 498-A IPC registered at Police Station Chamkaur Sahib, District Roop Nagar, Punjab and all the subsequent proceedings.

2. Learned counsel for the petitioner-husband *inter alia* submits that the petitioner is NRI and is residing in Italy. The petitioner was married to the complainant/respondent No.2 on 16.09.1997. Thereafter, petitioner went abroad on 02.11.1997. Learned counsel submits that the petitioner and the complainant were married for only about 03 months. Learned counsel further submits that thereafter matrimonial differences arose between the parties in which the oral compromise was effected between the parties on 20.03.2000. It is further stated that despite the compromise being effected between the parties, the complainant filed the present FIR No. 23 dated 31.03.2000 (Annexure P-3) under Section 406, 498-A IPC registered at Police Station Chamkaur Sahib, District Roop Nagar, Punjab, in which 05 accused were named; including the petitioner, his parents and sister of the

petitioner and husband of the sister. However, challan was filed only against the petitioner and parents of the petitioner. Thereafter, the parents of the petitioner faced trial and were acquitted by the trial Court vide order dated 18.01.2010 (Annexure P-9). The appeal filed by the complainant against the said order dated 18.01.2010 was also dismissed by the learned Additional District Judge, Rupnagar vide order dated 16.07.2010 (Annexure P-10). It is further stated that in the meantime petitioner as the petitioner was residing abroad, he was declared proclaimed offender on 30.09.2000.

3. Learned counsel for the petitioner contends that in view of the judgment of Division Bench in Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, 2011 (2) RCR (Criminal) 453, the present petition be allowed.

4. Learned counsel states that the complainant appeared only once before the learned trial Court; and in the present case though notice has been issued to respondent No.2, she has remained unserved as she has left the address and the petitioner does not have the latest address. It is also stated that vide order dated 08.03.2019, it was also directed by this Court that notice be issued to her through the learned Executing Court as well as through the SHO concerned. However, despite, that complainant has failed to appear before this Court.

5. Learned State counsel does not deny the above said facts stated by the counsel for the petitioner. In view above noted undisputed factual and legal position, the present petition is allowed and impugned order dated 30.09.2000 (Annexure P-4) declaring the petitioner proclaimed offender is set aside; and the present FIR 23 dated 31.03.2000 (Annexure P-3) under

Section 406, 498-A IPC registered at Police Station Chamkaur Sahib, District
Roop Nagar, Punjab along with all subsequent proceedings arising
therefrom, stands quashed qua the petitioner

(NIDHI GUPTA)
(JUDGE)

05.04.2024

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