



CRM-M-47211-2023 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
278

CRM-M-47211-2023 (O&M)

Date of decision:03.09.2024

Harpreet Singh and anotherPetitioners

V/s

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. K.P. Dhaliwal, Advocate for the petitioners.
Mr. Yuvraj Singh, Tiwana, AAG Punjab.
None for respondent No.2.

SUMEET GOEL, J. (Oral)

1. This is the second petition under Section 482 of the Code of Criminal Procedure filed by the petitioners seeking quashing of FIR No.132 dated 19.10.2018 registered under Sections 406, 498-A and 34 of the Indian Penal Code, 1860 (Annexure P-1) at Police Station Doraha, District Ludhiana, Punjab and order dated 09.06.2021 passed by Sub-Divisional Judicial Magistrate, Payal (Annexure P-7) with all subsequent proceedings arising therefrom.
2. It is pertinent to mention herein that earlier a petition (CRM-M-48909-2018) was also filed on the same cause of action which was dismissed as withdrawn, vide order dated 26.09.2019; relevant whereof reads as under:

“Learned State counsel on instructions from HC Harpal Singh, Police Station Doraha, District Ludhiana has made statement that upon completion of investigation, the police has



prepared cancellation report and undertakes to file the same in appropriate Court within seven days from today.

Faced with this, learned counsel for the petitioners on instructions from his client has made statement withdrawing the present petition however, reserving right of the petitioners to come up before this Court afresh if so necessitated.

Allowed to do so.

The petition stands dismissed as withdrawn with liberty aforesaid”

3. A perusal of the above-mentioned FIR shows that it was registered at the behest of the complainant (respondent No.2 herein), who was the wife of petitioner No.1 and daughter-in-law of petitioner No.2. A thorough reading of the allegations levelled in the FIR makes it abundant clear that the main thrust of the allegation in the FIR is that the complainant was working as an Editor in PCDA (WC) at Jabalpur (MP) and the talks of her marriage began in 2015 with Harpreet Singh of Akalgarh (petitioner No.1 herein); that her engagement was solemnized on 27.12.2015 with Harpreet Singh (petitioner No.1), and later on, the Court marriage was registered on 06.05.2016 in Jabalpur, with all the expenses being borne by the complainant. On account of the pressure being exerted by her husband Harpreet Singh (petitioner No.1) and his family, a ceremonial marriage was also solemnized on 20.11.2016 at Shagun Palace, Doraha, in which a lot of gold articles were given and a proper function was organized with great pomp and show. After the marriage, her mother-in-law (petitioner No.2 herein) took the possession of all the gold articles of the complainant. It was further

**CRM-M-47211-2023 (O&M)****3**

alleged by the complainant that her husband namely Harpreet Singh (petitioner No.1) often used to stay away from her by making excuses on one pretext or the other and pressured to get her transfer to Punjab. It was further alleged that the petitioner No.1 (Harpreet Singh) had treated her poorly, favored his sister-in-law Baljinder Kaur, and demanded financial support, including paying for his vehicle loan. On her refusal, the complainant was given severe beatings. Furthermore, the complainant's in-laws pressured the complainant either purchased a house in Chandigarh or make arrangement of Rs. 25-30 lacs in case she wanted to live with her husband (petitioner No.1). It has been further alleged that the Harpreet Singh and his family members had repeatedly harassed and mistreated the complainant, despite her efforts to fulfill their demands. After being subjected to mental and physical abuses, the complainant is now living alone in Chandigarh as her in-laws had cut off all their contacts with her. It was further alleged in the FIR that the complainant had spent huge amount on her marriage and on her in-laws. However, on account of constant harassment being meted out to complainant by her in-laws, she was in severe mental distress.

4. In view of the above circumstances, the FIR in question came to be registered against the petitioners. In final report filed by the police under Section 173 of the Cr.P.C., after due investigation, the police concluded that no offence under Sections 406 and 498-A of IPC is made out against the petitioners, and the FIR in question was wrongly registered against the petitioners. Accordingly, a



cancellation report was filed by the Police, in the Court of learned Sub-Divisional Judicial Magistrate, Payal.

5. The said cancellation report filed by the police was, however, rejected by the learned Sub-Divisional Judicial Magistrate, Payal on 09.06.2021 by passing the following order:

“In this cancellation report, Ranjit Kaur wife of Guriqbal Singh R/o Doraha, and Rajbir Kaur D/o Guriqbal Singh have already suffered the statement that they are satisfied with the investigation done by the police and as such they do not want to continue with the present case. As per the record, the FIR was registered against Harpreet Singh and others on the statement of complainant Rajbir Kaur that her marriage was solemnized with Harpreet Singh in the year 2016 with the consent of the families. After the marriage, Harpreet Singh has left her alone. It is further mentioned in the FIR that the In-laws of the complainant used to say her that due to the Court marriage the reputation of the in-laws of complainant has been harmed and again the ceremonies on the asking of in-laws on 20.11.2016 at Marriage Palace, Doraha were performed. Golden articles were also given by the parents of complainant to the in-laws which were taken by Daljit Kaur. The dispute arose between the parties. It is stated in the FIR that Harpreet Singh used to listen his sister-in-laws and also used to ask complainant to clear the car loan installments of Harpreet Singh. On the refusal by complainant, Harpreet Singh has given beatings to complainant. On other occasion complainant was also beaten by sister-in-laws and mother-in-law and her husband Harpreet Singh. The mother-in-law of complainant has asked parents of complainant to arrange for 25/30 lakhs amount only then they will allow the complainant to live with Harpreet Singh. During investigation, as per the report, matter was compromised between the parties, on the basis of which cancellation report has been submitted. As per record also, photocopy of affidavit of complainant Rajbir Kaur is also placed on record as per which it is mentioned that matter has been compromised between parties. As per the law, Section 498-A of IPC is non-compoundable offence. Accordingly, in my view cancellation on the basis of compromise cannot be accepted. Judicial papers be separated from the police papers and consigned to the record room. Police file be returned



to the concerned Police Station against proper receipt and receipt be attached with the judicial papers before consigning the papers.”

6. Feeling aggrieved by the aforesaid order, the petitioners have preferred the present petition under Section 482 of the Cr.P.C. seeking quashing of the above-mentioned FIR as well as order dated 09.06.2021 passed by SDJM, Payal before this Court.

7. No reply on behalf of the State has been filed to contest the claim of the petitioners seeking quashing of the FIR. The complainant, being respondent No.2 in the petition, was also put to notice of the present quashing petition, but she chose not to appear in the present proceedings, and thereby not contesting the claim of the petitioners.

8. As is apparent from the records of the case, earlier also a petition i.e.CRM-M-48909-2018 was filed by the petitioners on the same cause of action wherein a statement was made by the police that the it has prepared cancellation report and undertakes to file the same before the learned trial Court. In view of the same, the said petition was dismissed as withdrawn with liberty reserved in favour of the petitioners to file afresh, if so necessitated. Thereinafter, the parties had entered into a compromise vide compromise deed dated 26.10.2018 (Annexure P-2), wherein it was agreed between the parties that they had resolved all their disputes and the complainant-(respondent No.2), would have no objection in case the FIR in question be quashed. On the basis of said compromise, the parties had also filed a petition under Section 13-B of Hindu Marriage Act,



seeking dissolution of their marriage by mutual consent before the learned Principal Judge, Ludhiana, Camp at Payal, which was allowed vide order dated 21.05.2019 (Annexure P-3) and decree of divorce was granted.

9. After careful consideration of all the facts involved in the present case, it is apparently clear that the FIR was a result of matrimonial discord between the parties. A bare perusal of the FIR lodged against the petitioners, manifestly makes it clear that it is a case of rancorousness on the part of the complainant on account of the facts which do not, in any manner, constitute an offence under Sections 406 and 498-A of the IPC. The ingredients of the offence under Sections 406 and 498-A, are not only lacking, rather are conspicuously and curiously not to be found in existence in the entire contents of the FIR. The allegations in the FIR, on the face of it, do not give rise to any criminal offence. There is not even a distinct line of allegation against the petitioners in the entire FIR alleging any instance of demand of dowry or committing of any cruelty to the complainant by the petitioners in connection with said demand.

10. The Hon'ble Supreme Court in case titled as ***Mahmood Ali & Ors. Vs. State of UP, 2023 AIR (Supreme Court) 3709***, has held as under:

“At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that



such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under section 482 of the Cr.P.C., 1973 or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

11. In the case titled as ***G. Sagar Suri versus State of U.P., (2000) 2 SCC 636***, the Hon’ble Supreme Court has held as under:

“Jurisdiction under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be



exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

12. In view of the above discussed facts and circumstances of the case, the present petition is a fit case for exercise of jurisdiction by this Court under Section 482, to quash the FIR No.132 dated 19.10.2018 registered at Police Station Doraha, District Ludhiana, Punjab under Sections 406, 498-A and 34 of the Indian Penal Code, 1860 (Annexure P-1) and order dated 09.06.2021 passed by Sub-Divisional Judicial Magistrate, Payal (Annexure P-7). Accordingly, the said FIR and all other proceedings emanating therefrom including order dated 09.06.2021 deserves to be quashed.

13. Before parting with this judgment, this Court is constrained to place its disapproval of the order dated 09.06.2021 passed by the Sub-Divisional Judicial Magistrate, Payal rejecting the cancellation report filed by the Police with a direction to further investigate the case. While passing the said order, the Sub-Divisional Judicial Magistrate, Payal, *inter-alia* held that perusal of the file reveals that the accused had committed an offence punishable under Sections 406 and 498-A read with Section 34 of IPC. It was further held that in view of the nature and gravity of offence committed by the accused, the said Sub-Divisional Judicial Magistrate, Payal, was not satisfied with the statement suffered by the complainant accepting the cancellation report filed by the Police.

14. While passing the above order the concerned Sub-Divisional Judicial Magistrate, Payal has not pointed out any such



instance, much less grave in nature, pointing to the commission of offence committed by the accused punishable under Sections 406 and 498-A of IPC. A reading of the FIR coupled with the factum of cancellation report filed by the Police and acceptance of such cancellation by the complainant herself; exhibits the *faux pas* by the Sub-Divisional Judicial Magistrate, Payal in the matter while rejecting the cancellation report filed by the police. The said SDJM, despite observing about the nature and gravity of the offence committed by the accused, has not brought out any such allegation or instance in the order passed by her. The Court while dealing with the cancellation report filed in such like case; which stem out of matrimonial discord between the parties especially in the backdrop of acceptance of such cancellation by the complainant herself; ought to proceed in a compassionate manner and not with a pedantic approach. It is a settled proposition of law that the compromise, in a modern society, is the *sine qua non* of harmony and orderly behavior. It is the soul of justice and if the process of the Court is used in furtherance of such harmonious atmosphere it would certainly promote amity between the parties leading to an orderly and tranquil society.

15. Accordingly; the FIR No.132 dated 19.10.2018 registered at Police Station Doraha, District Ludhiana, Punjab under Sections 406, 498-A and 34 of the Indian Penal Code, 1860 (Annexure P-1) as also all proceedings emanating therefrom including order dated 09.06.2021 passed by SDJM, Payal stands quashed.



CRM-M-47211-2023 (O&M)

10

16. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

September03, 2024
Ajay

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