

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

214

Date of pronouncement: 29.04.2024

CRM-M-59212-2022(O&M)

Naveen Kumar

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Argued By:- Mr. Yogesh Goel, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG Haryana.

Mr. Ankur Goyat, Advocate for
Mr. Ramesh Goyat, Advocate
for respondent No.2.

Nidhi Gupta, J.

Prayer in the present petition filed under Section 482

Cr.P.C. is for quashing **on merits** of FIR No.114 dated 08.06.2022 registered under Sections 323, 406, 498-A and 506 IPC at Police Station Jind, District Jind; **and** all other proceedings emanating therefrom.

2. Learned counsel for the petitioner inter alia submits that petitioner was married to respondent No.2/complainant on 26.05.2021. From the beginning of the marriage, there was discord between the petitioner and respondent No.2. Accordingly, the complainant left the matrimonial home along with her parents in less than a month after the marriage, on 24.06.2021 itself. No child was born out of this wedlock. Learned counsel states that thereafter, the petitioner sought annulment of the marriage by filing a petition dated 18.11.2021 (Annexure P3) under

Section 12 of the Hindu Marriage Act, 1955. It is stated that as a counterblast to the same, the complainant filed the present complaint on 21.01.2022, on the basis of which the present FIR was registered on 08.06.2022. It is submitted that there were four persons named as accused in the present FIR being the present petitioner, his mother, father and sister. However, upon investigation, parents and sister of the petitioner were exonerated and challan was filed only against the petitioner.

3. Learned counsel submits that while working in the Delhi police as head constable, both the kidneys of the petitioner failed and he underwent kidney transplant operation on 31.10.2020 (Annexure P-7). After this operation, he was not given any operational charge and was confined to doing desk job with the Police.

4. It is submitted that marriage of the petitioner with the complainant on 26.05.2021 was a simple marriage, and dowry was neither demanded nor given. The marriage, being during Covid pandemic, permission was given only for 11 people to be present at the marriage (Annexure P-2).

5. Learned counsel further contends that the complainant was erratic and abnormal in behaviour and would often turn violent for no reason at all. Later, the petitioner and his family came to know that she was having psychological problems which were concealed from the petitioner and his family. Therefore, petitioner filed a case for annulment of marriage on the ground of fraudulent concealment of the mental condition of the complainant (Annexure P-3). It is stated that as a counterblast to this case, the present FIR (Annexure P-1) was got registered. In this FIR, false

allegations of payment of dowry have been made without any proof and the permission was given only for a simple marriage. There is a grievous allegation of unnatural sex also. Admittedly, there is even no medical evidence on record to prove the allegation of the complainant that she was subjected to unnatural sexual assault by the petitioner. Moreover, this incident has been alleged to have occurred during the intervening night between 12.06.2021 and 13.06.2021. However, on that night, the petitioner was on duty and this is duly established from the duty register, which every employee had to sign. The allegations made are absolutely false.

6. It is further submitted that the FIR lodged by the police of District Jind is without jurisdiction. It is submitted that after the marriage, respondent No.2 had stayed at Bahadurgarh in District Jhajjar. All the alleged atrocities and harassment of respondent No.2 occurred at District Jhajjar and no offence was ever done in District Jind. Accordingly, only the police of Bahadurgarh was competent to lodge the FIR against the petitioner. Accordingly, FIR lodged and investigated by the police of District Jind is without jurisdiction and the same is liable to be quashed on this sole ground.

7. It is further submitted that the facts as asserted in the quashing petition have not been controverted by the complainant in her reply. She has not said anywhere that the assertions made in the quashing petition are false but has only said that the quashing should be done in rarest of rare cases. Therefore, in the present case, a false case has been registered against the petitioner and he has been falsely implicated only

because he filed a petition for annulment of marriage. The present case is the one in which the criminal case registered against the petitioner should be quashed.

8. Learned counsel also submits that he has a pen drive in his possession, in which it can be seen that when the complainant left the matrimonial home on 24.06.2021 along with her parents, it was a very cordial see off between the complainant and the petitioner side. It is stated that the complainant hugged all members of the family and thereafter, departed happily with her parents. Learned counsel for the petitioner also submits that in actual fact, the complainant/respondent No.2 is mentally disturbed. This fact was not revealed to the petitioner and his family prior to marriage. In this regard, learned counsel refers to medical record of respondent No.2 (Annexure P5).

9. In support of his contentions, learned counsel for the petitioner relies upon judgment of this Court in **“Madan Lal & Others Vs. State of Punjab” Law Finder Doc ID # 272047**; and judgment of Hon’ble Supreme Court in **“Kahkashan Kausar @ Sonam & Others Vs. State of Bihar & Others” Law Finder Doc ID # 1941423**.

10. Learned counsel for respondent No.2/complainant vehemently opposes the prayer made on behalf of the petitioner and submits that as per the dicta of the Hon’ble Supreme Court in the landmark case of **“State of Haryana v. Bhajan Lal”: 1992 Supp. (1) SCC 335 Law Finder doc id # 45480**, all that is required to be seen is that the FIR should disclose a cognizable offence. It is submitted that in the present case, a bare reading of the FIR shows that a cognizable offence has been made out

against the petitioner. Moreover, specific dates have been mentioned in the FIR and truth or otherwise of the allegations made by the complainant can only be determined upon leading of evidence by the learned trial Court. It is submitted that the pen drive relied upon by the petitioner side is a part of evidence which is a part of trial. Learned counsel further submits that as pointed out in the FIR, the complainant was subjected not just to physical cruelty but also grave mental cruelty.

11. In support, learned counsel relies upon judgment of this Court in **“G.C. Rohilla Vs. M/s Gian Rice & General Mills, Kurkshetra” Law Finder Doc ID # 9757.**

12. No other argument is made on behalf of the parties.

13. I have heard learned counsel for the parties and perused the case file in great detail.

14. Perusal of record shows that following are the brief facts of the case in chronological order: –

31.10.2020: On 31.10.2020, the petitioner underwent kidney transplant operation, as is evident from the medical certificate issued by the concerned doctor at Annexure P-7.

24.05.2021: Vide letter/order dated 24.5.2021, the petitioner was granted permission by the SDM, Bahadurgarh for gathering 11 people at his residence for marriage. (Annexure P-2)

26.05.2021: The petitioner solemnised marriage with the complainant.

24.06.2021: Barely one month after the marriage, the complainant left the matrimonial home with her parents on 24.06.2021.

18.11.2021: On 18.11.2021, the petitioner filed petition under section 12 of the Hindu Marriage Act, seeking annulment of marriage. (Annexure P-3)

21.01.2022: After almost 7 months of leaving the matrimonial home, the respondent no.2 filed the present complaint against the petitioner, his parents, and his sister. Allegations were made for commission of offences under Sections 323, 406, 498-A, 506, 377 and 34 IPC.

08.06.2022: On the basis of the aforesaid complaint, the present FIR No.114 dated 08.06.2022 was registered under Sections 323, 406, 498-A, 377, 506 and 34 IPC at Police Station Jind, District Jind against the petitioner. (Annexure P1). Perusal of record shows that during investigation after associating all concerned persons, the Investigating Agency found no incriminatory evidence against the parents-in-law and sister-in-law/Nanad of the complainant. It was further found that no offence under Section 377 and 34 IPC was committed. Accordingly, challan under Section 173(2) Cr.P.C. was filed under Sections 498-A, 323, 406 and 506 IPC on 25.07.2022. It has also been affirmed that the petitioner is not involved in any other case.

15. FIR (Annexure P1) is reproduced hereinbelow:-

“To, the Superintendent of Police, Jind, District Jind. Subject complaint against 1. Naveen mobile No. 99924508689 (Husband) son of Jagdish. 2. Smt. Babita Mobile No. 9812255993 (mother in law) wife of Jagdish 3- Jagdish Mob No. 9416536575 (father in law) and 4 Sweeti (sister in law)

daughter of Jagdish resident of Sector 9A/2741 Bahadurgarh, regarding taking appropriate legal action for demand of dowry, causing domestic violence, attempt to declare mental, for mental harassment and for threat to kill after making a conspiracy with each other and for making unnatural sexual relation by accused no 1 and application for getting return my Istridhan. Sir, it is submitted that I Priyanka daughter of late Sh. Sanjay is resident of Jalalpur Kalan, Tehsil and District Jind and I have done JBT after completion of 10+2. I submit as under 1. That my marriage was got solemnized with accuse No 1 Naveen on dated 26.05.2021 with the consent of both the families at Aggarwal Dharamshala, near Railway Station Jullana as per the Hindu Rites and Rituals. In the above marriage my family had given all the house hold articles along with the ornaments of Gold and Silver after incurring expenses of Rs 7 lacs. But the above accused persons were not satisfied with the above dowry articles given in the marriage and just after 2 days of the marriage, all the above accused after getting connived with each other had started to taunt me and had said that you have degraded our reputation in the society. Our son is the employee of Delhi Police and in his marriage a Car should have been given. My father in law and mother in law had also said that there were lots of marriage offer of having Car but we had solemnized the marriage by thinking that you are person of good family and they will give at least a Car in the marriage and only after thinking that we have done marriage with you. We were not aware that you are the person of a hungry and naked family and you will not give even Car to us. 2. That it was only after some days of the marriage and I want to settle my home, accordingly I kept quiet but their spirits kept getting higher. On dated 12.06.2021 in the morning my mother in law and sister in law had done thrashing with me and had taken my all gold and silver ornament except of Mangal Sutra and regarding that when I had told to my father

in law then my father in law had said that you are mental and what will you do of these ornaments and the ornaments are and should be with your mother in law and these are safe. Thereafter in the night I had told this incident to accused No 1 Naveen then Naveen after getting angry had done beating of mine and after hearing the noise my mother in law and sister in law had also come there and they instead of saving me, they had also done thrashing with me. I was not even allowed to take meal in the night and when I had tried to talk with my mother after asking phone from my husband then my husband had not allowed me to talk on the phone. On the same night accused Naveen had developed forcible unnatural sexual relation with me. I kept on crying and weeping but accused no 1 had not heard me at all. 3. That the accused person after getting connived had also started to harass me mentally as well and on dated 23.06.2021 all the accused persons had done thrashing with me and thereafter accused no 4 Sweety had tried to remove my Mangal Sutra which I did not allow to remove after insisting of marriage symbol. After causing thrashing with me my father in law Jagdish had said to my Mama Satish on phone that either to take away your daughter otherwise she will be killed by our hands. 4. Thereafter my Mama and my mother on the next date 24.06.2021 had come to my in laws and had tried to understand them then accused no 1 after getting annoyed had given vulgar abuses to my mother and Mama and had thrown out me, my mother and Mama from house after insulting and said that if will return without completing the demand of the Car then we will kill this girl and you cannot do any harm because we have lots of influence in the police. Thereafter my mother and Mama had brought me in my parental home and right from that date I am at my mother's house. 5. That when my family members with the intention to settle my home had tried to contact with my in laws then accused persons had called us on dated 28.11.2021

at their relative's house at Rohtak and there accused persons had said regarding me that Priyanka is mental and we will got done her medical. On asking of the accused person, my medical was got conducted in PGI Rohtak and I was found totally fit physically and mentally. The copy of the medical is annexed. 6. That thereafter on dated 12.12.2021 again Panchayat was convened at Rohtak but the accused person had openly said that we will not take her at the home and you can do wrong whatever you can. 7. That in this manner accused person had completely harassed me and I had full apprehension of my life and liberty from the accused person. Accordingly it is humbly requested you to take legal action against the accused persons for conniving with each other, for demanding dowry, for causing domestic violence, for attempting to declare mental, for mentally harassing and for giving threat to kill and for developing forcible unnatural sexual relation by accuse no 1 and justice me kindly be provided to me and my Istri Dhan may kindly be given to me. Thanking You. Dated 21.01.2022 Sd. Priynaka daughter of late Sh. Sanjay wife of Naveen."

16. A bare reading of the above FIR shows that the majority of the allegations are made against the parents and sister of the petitioner. The main allegation against the petitioner was for subjecting the complainant to unnatural sex, which has already been found to be false. As regards the commission of offence under section 406 IPC, I find merit in the submission on behalf of the petitioner that there is no question of dowry demand as the marriage of the petitioner with the complainant had taken place on 26.05.2021, at a time when Covid-19 pandemic was at its peak and there was complete lockdown in the country. Admittedly, permission was sought from the concerned authorities for conducting the marriage. Vide order dated 24.05.2021 issued by learned Sub-Divisional Magistrate,

Bahadurgarh (Annexure P2), permission was granted for only 11 people to attend the marriage. Accordingly, the assertion in the FIR that Rs.7 lakh were spent on the wedding, appears to be on the face of it, false. Moreover, I find the allegations regarding dowry demand to be vague and general which do not constitute a cognizable offence. Nothing has been stated regarding what specific dowry articles were demanded and handed over to the petitioner. Allegations of demand of car have been made against the parents of the petitioner which have already been found to be false. It is my view that only general routine allegations have been made in order to falsely implicate the petitioner.

17. The main allegation against the petitioner pertains to the intervening night of 12/13 June, 2021, wherein it is alleged that *"...in the night I had told this incident to accused No 1 Naveen then Naveen after getting angry had done beating of mine and after hearing the noise my mother in law and sister in law had also come there and they instead of saving me, they had also done thrashing with me. I was not even allowed to take meal in the night and when I had tried to talk with my mother after asking phone from my husband then my husband had not allowed me to talk on the phone. On the same night accused Naveen had developed forcible unnatural sexual relation with me. I kept on crying and weeping but accused no 1 had not heard me at all. 3. That the accused person after getting connived had also started to harass me mentally as well...."*

18. As already noticed above, the allegation of the complainant regarding unnatural sex by the petitioner, was found to be false for lack of medical evidence. As regards the other allegation that on

the night of 12.06.2021 the petitioner got angry and beat the complainant, the same too is proven to be patently false as on the said night/date, the petitioner was on duty at Control Room, Delhi Police Academy, Jharoda. This is evident from the Duty Register (Annexure P4) (available at page 37 of the paper book), wherein it is recorded that on the said evening of 12.06.2021 from 19:50 till 8 am on 13.06.2021, the petitioner was on duty. It appears that the complainant is habitual of making false allegations.

19. The second allegation against the petitioner is that the petitioner along with the other accused had beaten up the complainant from time to time, i.e. on 12.06.2021 and also on 23.06.2021. However, it is not denied that the petitioner had undergone a kidney transplant on 31.10.2020 as is evident from the medical certificate issued by the concerned doctor (Annexure P7). Thereafter, the petitioner who was a Head Constable in the Delhi Police was assigned the desk job in the Delhi Police due to his ailment. Accordingly, the second allegation made in the FIR to the effect that the petitioner had assaulted the complainant and had given her beatings, thrashings, etc., does not inspire confidence. Moreover, there is no MLR or any other medical record in support of the said allegations of the complainant. It is not even the case of the complainant that when she was beaten by the accused on 12.06.2021, and again on 23.06.2021, that she ever approached the police in this regard or made any kind of complaint against the accused/petitioner. It is therefore my considered view that even no offence under Section 498A IPC is made out.

20. It is also relevant that there is an inordinate delay on the part of respondent No.2 in lodging the above FIR. As per the allegations

contained in the FIR, the offence with respondent No.2 was committed on 12.06.2021. However, the complaint in this regard was given by her only on 21.01.2022 i.e. after a delay of around 8 months.

21. In the facts and circumstances of the present case, it would be apposite to refer to a three-Judge Bench judgment of the Hon'ble Supreme Court in "**Abhishek Vs. State of Madhya Pradesh**" 2023 SCC OnLine SC 1083, Law Finder Doc ID # 2302074, relevant part of which is reproduced hereinbelow:-

*"13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in **Kahkashan Kausar alias Sonam & Others v. State of Bihar & Others [(2022) 6 SCC 599]**, this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also*

noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.

14. In **Preeti Gupta & Another v. State of Jharkhand & Another [(2010) 7 SCC 667]**, this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in **Neelu Chopra & Another v. Bharti [(2009) 10 SCC 184]**, this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

16. Of more recent origin is the decision of this Court in **Mahmood Ali & Others v. State of U.P. & Others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023)** on the legal principles applicable apropos Section 482 Cr. P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr. P.C. or the 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 of wreaking vengeance, then in such

circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be 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 as, 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, to try and read between the lines.”

22. Reference may also be made to “**Krishna Lal Chawla & Ors. Vs. State of UP & Anr.**” **Law Finder Doc ID # 1816686**. In this landmark judgement, the Hon’ble Supreme Court has held in para 21 that there are inherent powers to prevent the abuse of process so that the Courts shall not suffer a litigant utilising the institution of justice for unjust means. Relevant extract of which is as under:-

“21. It is a settled canon of law that this Court has inherent powers to prevent the abuse of its own processes, that this Court shall not suffer a litigant utilising the institution of justice for unjust means. Thus, it would be only proper for this Court to deny any relief to a litigant who attempts to pollute the stream of justice by coming to it with his unclean hands. Similarly, a litigant pursuing frivolous and vexatious proceedings cannot claim unlimited right upon court time and public money to achieve his ends.”

23. I would like to also refer to a three-Judge Bench judgment of the Hon’ble Supreme Court in “**State of Madhya Pradesh Vs. Laxmi Narayan & Others**” **Law Finder Doc ID # 1385786**, wherein it has been held as under:-

“29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases”.

24. I find the present case to be one such compelling case where I find the possibility of conviction of the petitioner to be remote and bleak, and I find that great oppression and prejudice and extreme injustice would be caused to the ailing petitioner if the present proceedings are allowed to continue.

25. In the present facts, it would be apposite to refer to the following extract in case of **Kahkashan** (supra) relied upon by learned counsel for the petitioner: -

“12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives.”

XXX

17. Recently, in **K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452**, it was also observed that:-

"6. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."

(Emphasis added)

26. Reference may also be made to another judgment of this Court relied upon by counsel for the petitioner in **Madan Lal** (supra), relevant part of which is reproduced hereinbelow:-

*"7. The Single Bench of this Court in a case of **Divya alias Babli and others v. State of Haryana and another reported as 2006 (4) RCR (Criminal) 322**, while relying on the judgement of the Apex Court rendered in the case of **Kans Raj v. State of Punjab and others reported as 2000(2) RCR (Criminal) 695** held as under:-*

*"24. Another latest judgment of Apex Court rendered in **Sushil Kumar Sharma vs. Union of India and others, 2005 (3) RCR (Criminal) 745** where issue of striking down Section 498A Indian Penal Code had sprouted, their Lordships observed that in such type of cases the "action" and not the "section" may be vulnerable and the Court by upholding the provisions of law may still set aside the action, order or decision and grant appropriate relief to the persons aggrieved. Their Lordships while dealing with the dowry menace, however, observed in para 17 as under:-*

"The object of the provision is prevention of the dowry menace. But as he has been rightly contended by the petitioner many instances have come to light where the complaints are not bonafide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy (ignominy?) suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-

intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing framework. As noted above the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin's weapon. If cry of "wolf" is made too often as a prank, assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the Courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalised statement. Certain statutory presumptions are drawn which again are rebuttable. It is to be noted that the role of the investigating agencies and the Courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the Courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view."

8. Thus, the continuation of the proceedings against the present petitioner, on the basis of above allegations in the FIR, is nothing but a misuse of process of law. Lately, a tendency has developed for roping in all the relations in dowry cases in order to browbeat and pressurise the immediate family of the

husband. Accordingly, sometimes inflated and exaggerated allegations are made.

9. In the light of the judgment passed by this Court in the case of Divya alias Babli and others (*supra*), the present petition qua petitioner No.1-Madan Lal @ Dara is allowed and FIR No.264 dated 26.11. under Sections 406, 498A and 323 Indian Penal Code registered at Police Station Sadar, Hoshiarpur and also the subsequent proceedings arising therefrom are hereby, quashed.”

(Emphasis added)

27. Learned counsel for respondent No.2 can derive no benefit from the judgment relied upon by him in case of **G.C. Rohilla (*supra*)**, as the facts and circumstances of that case are distinguishable from that of the present case. On the contrary, in a much more recent judgment the Hon’ble Supreme Court in “**Mahmood Ali & Others Vs. State of UP & Others**” Law Finder Doc ID # 2283625, has held as under:-

“11. The entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of **State of Haryana v. Bhajan Lal, AIR 1992 SC 604**. The parameters are:-

"(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.

(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."

We are of the view that the case of the present appellants falls within the parameters Nos. 1, 5 and 7 resply of Bhajan Lal (supra).

12. 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 CrPC, 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.”

28. In view of the factual and legal position as noticed above, present petition is **allowed**; and FIR No.114 dated 08.06.2022

registered under Sections 323, 406, 498-A and 506 IPC at Police Station Jind, District Jind; **and** all other proceedings emanating therefrom, are quashed, qua the petitioner.

29. Pending application(s) if any also stand(s) disposed of.

29.04.2024

Sunena

(Nidhi Gupta)
Judge

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