

CRM-M-62189-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-62189-2023 (O&M)
Date of decision:21.05.2024

BALWINDER SINGH SANDHU AND ANOTHER

PETITIONERS

V/s

STATE OF PUNJAB AND ANOTHER

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RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Anu Bala Garg, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

None for respondent No.2.

SUMEET GOEL, J.

1. Present petition has been filed under Section 482 of the Code of Criminal Procedure by petitioners for quashing of FIR No.148 dated 07.09.2015 registered at Police Station City South Moga, District Moga, Punjab under Section 498-A of the Indian Penal Code, 1860.
2. Perusal of the above-mentioned FIR shows that it was registered on behest of the complainant who is daughter-in-law of the petitioners. A thorough reading of the allegations in the FIR makes it clear that the main thrust of the allegations in the FIR is that she as well as her husband (son of the petitioners-accused) are not being permitted by the petitioners to live in their ancestral house. It is alleged in the FIR that in the month of April, 2014 the complainant

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and her husband were forcibly evicted from their ancestral house by the petitioners, but three months past thereafter, they were again taken back into the house by the petitioners. However, on 16.05.2015 when the husband of the complainant was away to Patiala, she was again moved out of the house by petitioners, and her mother took her along to her parental home. The final request made to the police in the FIR is that the complainant and her husband be put back in the house of the petitioners, which is alleged to be their joint property.

3. In the initial complaint made to the police the complainant had named her father-in-law, mother-in-law, and sister-in-law as accused. However, prior to registration of the above-mentioned FIR, it seems a preliminary enquiry was conducted by the police. During the said enquiry the police concluded that marriage of complainant was performed with son of petitioners, and the said alliance between the parties was made through Dera Sacha Sauda, their religious sect. It was concluded by the police that since the petitioners were not happy with the dowry received in the marriage and as such were pressurizing their son to divorce the complainant. As such the police recommended for the registration of FIR against the petitioners under Section 498-A of the IPC. Sister-in-law of the complainant was found innocent by the police and no action was recommended against her.

4. In the above circumstances the above-mentioned FIR 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,

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the police concluded that no offence under Section 498-A of IPC is made out against the petitioners, and that the FIR was wrongly registered against the petitioners. Accordingly, the report seeking cancellation of the FIR was filed by the Police, in the Court of learned Chief Judicial Magistrate, Moga.

5. The said cancellation report filed by the police was rejected by the learned Chief Judicial Magistrate, Moga on 22.02.2021 by passing the following order:

“Cancellation report presented today. It be registered. Complainant Jyoti appeared and suffered statement to the effect that the matter has been compromised between her and her in-laws. Therefore, she agrees with the present cancellation report submitted by the police today in the court and she has no objection, if the present cancellation report submitted by the police, is accepted by this court. The complainant has been duly identified by above said ASI Gurmej Singh and even copy of the AADHAR Card of the complainant has been taken on file in token of proof of her identity. Perusal of the file reveals that the accused had committed an offence punishable under Section 498-A of IPC which is not compoundable in nature. It appears that in order to avoid the proper legal proceedings, the present cancellation report has been filed. Accordingly, in view the nature and gravity of the offence committed by the accused, this Court is not satisfied with the statement suffered by complainant in the

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Court. As such, present cancellation report submitted by the police is hereby rejected and same is ordered to be sent back for further investigation. Police papers be returned to the concerned quarter. Judicial papers be consigned to judicial record room.”

6. Feeling aggrieved by the said order the petitioners have filed the present petition under Section 482 of the Cr.P.C. seeking quashing of the above-mentioned FIR before this Court. It is pertinent that in their zeal to get the FIR quashed the petitioners have not impugned the above quoted order dated 22.02.2021 passed by the learned Chief Judicial Magistrate, rejecting to accept the cancellation report filed by the police. Nevertheless, since the FIR itself has been sought to be quashed by the petitioners, for evaluating the merits in the quashing petition filed by the petitioners, the order dated 22.02.2021 passed by learned Chief Judicial Magistrate cannot be construed to be an impediment in any manner.

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 the notice of the present quashing petition, but she chose not to appear in the present proceedings, and thereby no to contest the claim of the petitioners.

8. A bare perusal of the contents of the FIR lodged against the petitioners, manifestly makes it clear that it is a case of rancourness on part of the complainant on account of facts which do

not in any manner constitute the offence under Section 498-A of the IPC. The ingredients of the offence under Section 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 as already noticed in the preceding paras of this judgment are predominantly laced with the grievance of the complainant qua the ouster of complainant and her husband, by the petitioners out of their own house. The request made by the complainant to the police in the FIR that she and her husband be put back in the house of petitioners, is the *linchpin* to gather the nature of dispute between the parties which, even if founded on legitimate cause, is clearly of civil in nature. 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.

9. Hon'ble Supreme Court in case of ***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.”

10. In case of ***G. Sagar Suri versus State of U.P., (2000) 2 SCC 636*** the Hon’ble Supreme Court held that:

“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.”

11. In view of the above discussed facts and circumstances of the matter, present petition is a fit case for exercise of jurisdiction by this Court under Section 482, to quash the FIR No.148 dated 07.09.2015 registered at Police Station City South Moga, District Moga, Punjab under Section 498-A of the Indian Penal Code, 1860 against the petitioners including order dated 22.02.2021 passed by Chief Judicial Magistrate, Moga. Accordingly, the said FIR and all

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other proceedings emanating therefrom including order dated 22.02.2021 deserves to be quashed.

12. Before parting with this judgment this Court is constrained to place its disapproval of the order dated 22.02.2021 passed by the Chief Judicial Magistrate, Moga; rejecting the cancellation report filed by the police with a direction to further investigate the case. While passing the said order the Chief Judicial Magistrate, *inter-alia* held that perusal of file reveals that the accused had committed an offence punishable under Section 498-A of IPC. It was further held that in view of the nature and gravity of offence committed by the accused, the said Chief Judicial Magistrate, was not satisfied with the statement suffered by the complainant accepting the cancellation report filed by the police.

13. While passing the above order the concerned Chief Judicial Magistrate has not pointed out any such instance, much less grave in nature, pointing to the commission of offence by the accused punishable under Section 498-A of IPC. A thorough reading of the FIR, wherein no allegation pertaining to demand of dowry has been mentioned, 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 Chief Judicial Magistrate in the matter while rejecting the cancellation report filed by the police. The said CJM, 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

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dealing with 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.

14. Accordingly; the FIR No.148 dated 07.09.2015 registered at Police Station City South Moga, District Moga, Punjab under Section 498-A of the Indian Penal Code, 1860 as also all proceedings emanating therefrom including order dated 22.02.2021 passed by CJM, Moga stands quashed.

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

(SUMEET GOEL)
JUDGE

May 21, 2024
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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No