



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

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CRM-M No.6151 of 2019 (O&M)
Date of decision: 03.02.2025

Neha Sharma

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sunil Chadha, Sr. Advocate
with Ms. Sonia Monga, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Sunny K. Singla, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.239 dated 25.11.2015 registered under Sections 406, 420 and 120-B IPC at Police Station Civil Lines, Patiala, District Patiala, as well as all subsequent proceedings arising therefrom.
2. Briefly, the son of respondent No.2, namely, Chandan Sharma, was married to petitioner Neha Sharma on 07.10.2013. It was second marriage between them. According to the son of respondent No.2, after marriage, they lived together only for 20 days. Thereafter, Neha Sharma left for Australia on 27.10.2013 with a promise to her husband Chandan Sharma to call him to Australia in due course of time on completion of necessary formalities. However, non-fulfillment of promise by Neha Sharma earned annoyance of her husband Chandan



Sharma, who resultantly, filed a divorce petition under Section 13 of the Hindu Marriage Act on 27.05.2015. Six months thereafter, respondent No.2 father of Chandan Sharma lodged the instant FIR against the petitioner, levelling allegations that they had fraudulently charged Rs.15.00 lakh from him on the pretext of settling his son Chandan Sharma in Australia after marriage with Neha Sharma. But they did not fulfill their promise and raised further demand of Rs.25.00 lakh to settle the son of respondent No.2 in Australia.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated due to matrimonial discord between the petitioner and her husband, who is son of respondent No.2. The entire story put forth in the FIR by respondent No.2 is concocted and false, just to take revenge from the petitioner as she is not willing to live with son of respondent No.2 on account of their temperamental differences, because Chandan Sharma, son of respondent No.2 earlier also was deported from Australia for committing family violence with his first wife, namely, Ashu Sharda, permanently settled there. Further when the husband of the petitioner filed a petition against the petitioner seeking divorce, he has not pleaded or alleged about payment of Rs.15.00 lacs made by his father i.e. respondent No.2 to the mother and brother of the petitioner and in the entire pleadings in the divorce petition, there is no allegation with regard to any demand of money. Further it was a second marriage between the petitioner and son of respondent No.2 and the story put forth that respondent No.2 has agreed



to pay Rs.15.00 lacs to the mother and brother of the petitioner is too far-fetched and unbelievable. There is no documentary proof with regard to the source of the alleged amount for delivery of the same to the petitioner. Further learned Senior counsel for the petitioners placed reliance on ***“Delhi Race Club (1940) Ltd. and Ors vs. State of Uttar Pradesh and Anr.”***, AIR 2024 SC 4531, and submits that the FIR (supra) cannot be registered under Sections 406 and 420 IPC as both the offences are anti-thesis to each other and lastly, learned Senior counsel for the petitioner has relied upon the judgment passed by the Coordinate Bench of this Court in **CRM-M No.1168 of 2016**, titled as ***“Ramesh Kumari and another vs State of Punjab and another”***, decided on 25.11.2018 (Annexure P-5), wherein the mother and brother of the petitioner have approached this Court seeking quashing of the FIR (supra) and the same was allowed and the FIR qua the similarly situated co-accused namely Ramesh Kumari and Vishal Sharma, stands quashed and further respondent No.2 was a serving official and he used his official position to get this false FIR registered against the petitioner and her family members.

4. On the other hand, learned State counsel assisted by learned counsel for respondent No.2 opposes the prayer made by the petitioner on the ground that the present petition is pre-mature and the investigating agency is yet to conclude the investigation and the petitioner remained absconding and she was declared as proclaimed offender, however, learned State counsel could not controvert the fact



that the order vide which the petitioner was declared proclaimed offender has been set-aside by the Coordinate Bench of this Court on 28.11.2024 passed in CRM-M No.55577 of 2024, titled as “***Neha Sharma vs State of Punjab and another***”, and the FIR (supra) qua the co-accused namely Ramesh Kumari and Vishal Sharma, has already been quashed by this Court.

5. Having heard learned counsel for the parties and from the perusal of the record, it transpires that the matrimonial dispute ensued between the petitioner and her husband due to temperamental differences and the son of respondent No.2, has filed a petition seeking divorce from the petitioner (Annexure P-2). A perusal of the divorce petition (Annexure P-2) indicates that not even a whisper has been made against the petitioner with regard to demand of alleged payment of Rs.15.00 lacs and further the divorce petition was filed on 27.05.2015 whereas the FIR (supra) was registered later on, on 25.11.2015 and the factual ingredients to invoke the provisions of Section 420 IPC i.e. intention to cheat from the very inception is not attracted.

6. A two Judge bench of the Hon’ble Supreme Court in “***State of Haryana vs. Ch. Bhajan Lal***” AIR 1992 SC 604, speaking through Justice Ratnavel Pandian, held as follows:

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and



reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

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 F.I.R. 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 F.I.R. 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 F.I.R. 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.”
(emphasis supplied)

7. A two Judge bench of the Hon’ble Supreme Court in **“Gulam Mustafa vs. State of Karnataka and another”, 2023(3) RCR (Criminal) 182**, speaking through Justice Ahsanuddin Amanullah, held as follows:

“27. This Court, in *S.W. Palanitkar vs. State of Bihar, (2002) 1 SCC 24*, held:

“... whereas while exercising power under section 482 Cr.P.C., 1973 the High Court has to look at the object and purpose for which such power is conferred on it under the said provision. Exercise of inherent power is available to the High Court to give effect to any order under Cr.P.C., or to prevent abuse of the process of any court or otherwise to secure the



ends of justice. This being the position, exercise of power under section 482 Cr.P.C., 1973 should be consistent with the scope and ambit of the same in the light of the decisions aforementioned. In appropriate cases, to prevent judicial process from being an instrument of oppression or harassment in the hands of frustrated or vindictive litigants, exercise of inherent power is not only desirable but necessary also, so that the judicial forum of court may not be allowed to be utilized for any oblique motive. When a person approaches the High Court under section 482 Cr.P.C., 1973 to quash the very issue of process, the High Court on the facts and circumstances of a case has to exercise the powers with circumspection as stated above to really serve the purpose and object for which they are conferred."(emphasis supplied)

28. In *State of Karnataka vs. M. Devendrappa*, (2002) 3 SCC 89, it was decided:

"6. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with



procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it



amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto." (emphasis supplied)

30. The law on the subject was also examined in **Parbatbhai Aahir v. State of Gujarat, (2017) 9 SCC 641. In Habib Abdullah Jeelani, (2017) 2 SCC 779**, it was opined:

"inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution and when and only when such exercise is justified by the test specifically laid down in the provision itself There is no denial of the fact that the power under section 482 Cr.P.C., 1973 is very wide but it needs no special emphasis to state that conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court." (emphasis supplied)

8. The question whether the petition can be quashed under Section 482 Cr.P.C. without the report under Section 173 Cr.P.C. arose before the Hon'ble Supreme Court in case of **"Ajay Mitra vs. State of M.P.& Ors."**, 2003 (3) SCC 11, wherein the Hon'ble Court held that the inherent power under Section 482 Cr.P.C., 1973 for quashing of an FIR has not been absolutely excluded where a report under Section 173 Cr.P.C., 1973 is not filed. The power conferred under Section 482 Cr.P.C., has to be exercised with great caution. To enumerate, if the bare



perusal of FIR do not disclose commission of any offence or commission of a non-cognizable offence wherein police does not have jurisdiction to investigate the said offences, in such case the petition could be quashed under Section 482 Cr.P.C. without the report of Section 173 Cr.P.C., 1973. Additionally, if the offence disclosed in the FIR is punishable by a term of 03 years or less, or if the FIR has been registered in violation of any judicial order, the petition may also be quashed under Section 482 Cr.P.C. without the need for a report under Section 173 Cr.P.C., 1973. It is pertinent to mention that the power has to be exercised the inherent power of Section 482 Cr.P.C., would depend upon the facts and circumstances of the said case and it cannot be stated in absolute terms that in all cases where the above said issues arise that the FIR has to be quashed.

9. The prime question before the a two-Judge Bench of the Hon'ble Supreme Court in the case of ***Mahmood Ali vs. State of U.P. (SC), 2023 CriLJ 3896*** speaking through Justice J.B. Pardiwala, held that:

“...while invoking the inherent power under Section 482 Crpc for quashing the FIR or criminal proceedings whereby the proceedings initiated are frivolous or instituted with the ulterior motive for wreaking vengeance, in such cases Court owes a duty to minutely and cautiously look into the contents of FIR. Once the complainant decides to wreak personal vengeance, the complainant would ensure the averments made in the FIR disclose alleged offence and there is no room for any discrepancies. Therefore, apart from looking into the averments made in the FIR, the Court owes a duty to look into other emerging



circumstances and material collected in the investigation leading to the initiation/registration of the case.”

10. A two-Judge Bench of Hon’ble Supreme Court in the case of ***State of Andhra Pradesh vs. Golconda Linga Swamy, (2004) 6 SCC 522***, a Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:-

"5....Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.



11. Further, a two-Judge Bench of Hon'ble Supreme Court in the case of ***Kishan Singh dead through LR's vs. Gural Singh, 2010 (3) SCC (CrI) 1091***, speaking through Justice B.S. Chauhan, held that:

“For quashing any proceedings, the Court ought to carefully scrutinize the facts before it as the frustrated litigant who failed before the civil court may initiate the criminal proceedings with mala fide intention merely to wreak personal vengeance. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by invoking the jurisdiction of the criminal court. In such a case, where an FIR is lodged clearly with ulterior motive to spite the other party because of a personal rancour and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law.”

12. After considering the arguments and reviewing the record, this Court finds that the FIR registered against the petitioner does not *prima facie* disclose a cognizable offence, particularly under Sections 406, 420, and 120-B IPC. The allegations appear to be part of a matrimonial dispute stemming from temperamental differences between the petitioner and her husband, as evidenced from the divorce petition filed earlier, which does not include any mention of the alleged payment of Rs.15 lakh or any other fraudulent activity. This Court also notes that the FIR (supra) was registered several months after the divorce petition was filed and lacks the requisite ingredients to support the charge of cheating or criminal breach of trust. In light of these factors and the legal principles laid down in various judgments, including those of the



Hon’ble Supreme Court discussed hereinbefore, this Court is of the considered opinion that continuing the criminal proceedings would amount to an abuse of process of law.

13. Accordingly, the present petition is allowed and the FIR No.239 dated 25.11.2015 registered under Sections 406, 420 and 120-B IPC at Police Station Civil Lines, Patiala, District Patiala, and all other subsequent proceedings arising therefrom are quashed *qua* the petitioner.

(HARPREET SINGH BRAR)
JUDGE

03.02.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No