



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

CRM-M-12317-2018 (O&M)

Reserved on:- 22.7.2025

Date of Decision: 12.8.2025

Harjit Singh Parhar

.....Petitioner

Versus

Sadhu Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sarju Puri, Advocate
for the petitioner.

Mr. A.P.Setia, Advocate
for the respondent.

KIRTI SINGH, J. (ORAL)

1. The instant petition has been filed seeking quashing of the private complaint bearing case No. COMI/25/2014 dated 15.7.2014, under Sections 498-A and 406 IPC, titled 'Sadhu Singh versus Harjit Singh Parmar etc.' (Annexure P-4) and all the subsequent proceedings arising therefrom including the impugned summoning order dated 2.11.2017 (Annexure P-5), whereby the petitioner has been summoned to face trial qua commission of offences punishable under Sections 498-A and 406 IPC.

2. Succinct factual narrative relevant for the disposal of the petition is that the petitioner and his family members have been residing in the United States of America for the last more than 25 years and have American Citizenship. The petitioner along with his family members visited India in the year 2012 for the purpose of marriage of the petitioner. Thereafter, the marriage between the petitioner and the daughter of the complainant (hereinafter referred to as xxxx) was solemnized on 5.2.2012. A



few days after the marriage, the petitioner left for USA and applied for the migration of the xxxx. Thereafter, the daughter of the complainant joined the petitioner in May, 2013 in USA. Shortly after, a petition seeking annulment of their marriage was moved by the petitioner before the Superior Court of New Jersey, Chancery Division/Family Part Cumberland County through his attorney, and vide judgment of nullity dated 13.6.2014 (Annexure P-1), the marriage between the petitioner and xxxx was declared to be null and void. After the passing of the said judgment, both the parties got re-married. Subsequent to the passing of the said judgment of annulment of marriage, the respondent, who is the father of xxxx, filed the present complaint against the petitioner and his parents under Sections 498-A and 406 IPC, wherein the learned trial Court issued process against the petitioner under Sections 498-A and 406 IPC vide summoning order dated 02.11.2017. Hence, the present petition has been filed for quashing of the above complaint as well as the summoning order.

Submissions made by the learned counsel for the petitioner

3. At the outset, learned counsel appearing of the petitioner has challenged the maintainability of the complaint dated 15.7.2014 and the summoning order dated 02.11.2017. He submits that it is an admitted fact that the marriage between the parties was solemnized on 05.2.2012. Shortly after, the petitioner left for USA, and the daughter of the complainant joined the petitioner in USA in May 2013. All the alleged incidents, even if *arguendo* are taken to be true, cannot be made the basis of initiating criminal litigation against the petitioner before the concerned Courts of jurisdiction in India, since all the alleged occurrences took place abroad.



4. It is submitted that the due to the rigid behaviour of the spouse of the petitioner, the marriage was never consummated between them, and that the daughter of the complainant even admitted that she had performed marriage with the petitioner only to permanently settle in USA. It has also been argued that thereafter the marriage between the petitioner and the daughter of the complainant was declared to be null and void upon an application moved by the petitioner, by way of judgment of nullity dated 13.6.2014 passed by the Superior Court of New Jersey, Chancery Division/Family Part Cumberland County. However, after the passing of the said decree, the respondent instituted a private complaint against the petitioner and his family members on 15.7.2014, in which the learned trial Court found that there was neither sufficient evidence, nor was a prima facie case ever made out to summon accused Nos. 2, 3 & 4 for any offence alleged in the said complaint. However, the learned Magistrate, without conducting any inquiry as mandated under the provision of Section 202 Cr.P.C., issued process against the petitioner under Section 498-A & 406 IPC vide the impugned summoning order dated 02.11.2017. Further, Section 188 Cr.P.C. provides that when the alleged offence is committed outside India, criminal prosecution cannot be initiated in India without obtaining sanction by the Central Government, which mandate was also not adhered to by the learned trial Court.

5. Learned counsel submits that once the matrimonial ties between the parties had been annulled by the Court at USA, there remains no reason for instituting criminal proceedings against the petitioner other than the vexatious motive of making the petitioner and his family



members suffer, especially so when both the petitioner as also XXX have, after obtaining divorce, moved on in their respective lives and have re-married and have even been blessed with children. It is submitted that the learned trial Court overlooked the entire factual aspect of the case and passed the impugned order summoning the petitioner, which is bad in law. To buttress his submissions, learned senior counsel has placed reliance on the judgments passed in *Harmanpreet Singh Ahluwalia Vs. State of Punjab and others, 2009(2) RCR (Crl.) 956* and *Amrinder Singh Gandhi and others Vs. Gurdev Singh and others, 2019 (2) RCR (Crl.) 787*.

**Submissions made by the learned counsel for the
respondent-complainant**

6. Per contra, learned learned counsel for the complainant has vehemently opposed the submissions made by the learned counsel for the petitioner. He submits that the learned trial Court concerned has rightly summoned the petitioner after going through the preliminary evidence. It has further been submitted that the petitioner sought divorce from the USA Court by wrongly alleging therein that the marriage has not been consummated. Furthermore, the accused persons are guilty of demanding money from time to time from the daughter of the complainant and inflicting atrocities upon her. In his complaint, the respondent has leveled categorical allegations qua the demands for dowry made by the accused persons and also gave a detailed account of the cruelty and harassment suffered by his daughter. It was, thus after thorough application of mind and upon finding a prima facie case against the accused, that the learned trial Court ordered the summoning of the petitioner vide order dated



02.11.2017 under sections 498-A and 406 IPC. It has been further argued that the present petition is liable to be dismissed as all the contentions raised by the learned counsel herein are disputed question of facts, which can be determined only after the evidence is produced before the learned trial Court.

Inference(s) of this Court

7. Heard learned counsel on either side and perused the judicial record with their able assistance.

8. Conceded position that emerges from the judicial record is that the marriage of the petitioner and the daughter of the complainant was solemnized on 05.2.2012 at Nawanshahr. Thereafter the petitioner left for abroad shortly after, and the daughter of the complainant joined him in USA in May 2013. As per the undisputed submission, the couple never visited India thereafter. Subsequently, the petitioner filed a petition for annulment of their marriage, which was decreed by the Court of competent jurisdiction there on 13.6.2014. It was thereafter that the complaint-respondent moved the impugned private complaint on 15.7.2014 before the Court of Judicial Magistrate Ist Class, Garhshankar. A bare perusal of the same reveals that allegations were leveled against the accused persons therein, majorly with respect to offences purportedly committed in USA, without disclosing the factum of the marriage between the petitioner and his daughter having been declared null and void by the Court of competent jurisdiction at USA. It is also pertinent to note here that both the petitioner and the daughter of the complainant have, after the annulment of their marriage, moved on individually in their lives and have subsequently re-married. The impugned order was passed



without due regard to these facts, without adhering to the provisions of law as contained under sections 188 and 202 Cr.P.C.

9. In the authoritative pronouncement of ***State of Haryana and Ors. v. Bhajan Lal and Ors. 1991 (1) R.C.R.(Criminal) 383***, passed after a thorough analysis of the legal provisions and judicial postulates, the Hon'ble Supreme Court formulated an illustrative list of categories of cases wherein the extraordinary and inherent powers under Article 226 of the Constitution of India and section 482 Cr.P.C. could be invoked either to prevent abuse of the process of the Court or otherwise to secure the ends of justice. Relevant para thereof reads thus:

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 made 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"

10. A gainful reference can also be made to the judgment passed by the Hon'ble Apex Court in ***Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors. 1988 (1) R.C.R. 565***, wherein it was held as under:

"7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

11. Under similar circumstances, a Co-ordinate Bench of this Court in the case of ***Amandip Kaur and another vs. State of Punjab and another, and the connected petitioners, 2016 (1) RCR(Criminal) 671***, while



quashing the criminal proceeding emanating from a complaint against the accused person, including P.O. orders, gave the following observations:

*“11. There is no denying the fact that before registration of the impugned FIR, complainant submitted her complaint dated 5.1.2014 before the Canadian police, which was pending consideration. It is also not in dispute that there is not even a passing reference of the said complaint dated 5.1.2014 in the impugned FIR, for the reasons best known to the complainant. It has gone uncontroverted before this **Court** that the complainant came to India for the purpose of registration of impugned FIR and again went back to **Canada**. Thereafter, she did not return as if she was neither supposed to cooperate with the investigating agency nor with the prosecuting agency.*

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*15. A bare reading of the impugned FIR would show that except the performance of marriage in India, hardly any other incident has taken place in India. The reason was obvious. Soon after the marriage, complainant went to **Canada** along with her husband. They stayed together as husband and wife. She gave birth to a male child in **Canada** in December 2011. Thereafter, if because of some temperamental differences, husband and wife could not pull on together any further, it would not be and must not be permitted to be converted into this kind of frivolous litigation, as has been imposed by the complainant on the petitioners.*

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*17. If the criminal proceedings are allowed to continue, it will certainly result in further abuse of process of **court** and would also result in serious miscarriage of justice, thus, the same cannot be upheld, for this reason as well.”*

12. In view of the foregoing analysis of the facts of the present case done in light of the judicial pronouncements contained herein above, this Court deems this a fit case warranting the quashing of the criminal complaint and the resultant proceedings emanating therefrom against the petitioner.

13. As a corollary, the present petition stands allowed. The complaint bearing No. COMI/25/2014 dated 15.7.2014, under Sections 498-A and 406 IPC, titled ‘*Sadhu Singh versus Harjit Singh Parmar etc.*’



(Annexure P-4) and all subsequent proceedings, including the summoning order dated 02.11.2017 (Annexure P-5), are hereby quashed.

14. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

August 12th, 2025
Gurpreet Singh

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