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

CRM-M-18513-2018 (O&M)

Date of Decision: 24.03.2025

Rattan Lal and another

..... Petitioners

Versus

State of U.T., Chandigarh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for the petitioners.

Mr. J.S. Toor, APP, U.T., Chandigarh.

Mr. Bhupinder Banga, Advocate
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-5960-2021

For the reasons mentioned in the application, the same is allowed and the orders passed by Federal Circuit Court of Australia vide Annexures P-7 to P-9 are taken on record, subject to all just exceptions.

Main case

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the FIR bearing No.60, dated 13.07.2016, under Sections 406 & 498-A IPC, registered at Police Station Women, Chandigarh (Annexure P-1) and report under Section 173 Cr.P.C. dated 25.01.2018 (Annexure P-2) being a total abuse of process of law.

2. The brief facts of the present case as so stated by learned counsels for the parties are that the petitioners are the father-in-law and mother-in-law of

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respondent No.2/wife and petitioner No.1 is about 67 years old and petitioner No.2 is about 65 years old as of today. The son of the petitioners and respondent No.2, knew each other and on the basis of their relationship, the marriage was arranged by their parents and accordingly, the marriage was solemnized on 22.11.2009 between the son of the petitioners and respondent No.2 at Chandigarh. After about one month of the marriage of the son of the petitioners and respondent No.2, they went to Australia for the purpose of settlement but ultimately unfortunately matrimonial discord took place and various disputes arose between the parties. Thereafter respondent No.2 came back to India and once again returned to Australia and when she went back to Australia for the 2nd time, she tried settling the dispute with son of the petitioners and rather stayed there with him for three years as per the FIR. When they stayed together for about 3 years, a son was born out of the wedlock on 05.11.2013 but ultimately again matrimonial dispute arose and respondent No.2 again came back to India but eventually she again went back to Australia and both the son of the petitioners and respondent No.2 are now independently settled in Australia.

3. Mr. G.S. Punia, learned Senior Counsel with Ms. Harveen Kaur, Advocate appearing on behalf of the petitioners has argued that it is a case where the present FIR is of the year 2016 which is almost 9 years old and challan was presented in the present case but the son of the petitioners is residing in Australia and the petitioners having no connection with him because the petitioners are residing in India but he did not return to India and eventually he was declared as P.O. So far as the present two petitioners are concerned, who are the old parents, they have filed the present petition in



which notice of motion was issued by this Court on 03.05.2018 and an interim order was passed wherein further proceedings before the learned trial Court with reference to the FIR in question were stayed and in this way the trial has not commenced till date.

4. Learned Senior Counsel while referring to the contents of the FIR submitted that a perusal of the same would show that respondent No.2/wife being the author of the complaint on the basis of which the present FIR was lodged had alleged that prior to the marriage, the son of the petitioners, namely, Sumit Batish was known to her and he pretended that he loved her so much and he would take care of her and her whole family and initially she was reluctant but her parents convinced her for the marriage and thereafter, the marriage took place on 22.11.2009. Learned Senior Counsel further submitted that it has been alleged in the FIR that at the time of marriage some jewellery and as per the list of articles which was given as a gift at the time of marriage by respondent No.2/complainant which included 18 blankets at the time of *Milni* and various clothes and a sum of ₹1 lac was also given in cash to the groom and some jewellery was also given and the same was entrusted with petitioner No.2/mother-in-law for safe custody. While further referring to the FIR, learned Senior Counsel submitted that just after about one month thereafter, both the son of the petitioners and respondent No.2 went abroad and ultimately settled in Australia and so far as the allegation of cruelty are concerned, the same are pertaining to action done not in India but in Australia even as per the perusal of the FIR. So far as allegation of entrustment of some blankets or jewellery articles is concerned, the same were totally vague and evasive. No specific allegation of any particular item has been mentioned in the FIR and



usual, normal and evasive allegations were made with regard to entrustment of property only for the purpose of harassing the petitioners, who are old aged parents and rather the marriage was also love marriage and in fact no such entrustment of property of any jewellery articles or blankets was made. He also submitted that whatever items pertaining to her jewellery which she had worn at wedding were already with her at the time when she left for Australia after just one month of the marriage and the petitioners being old parents have been humiliated at the hands of respondent No.2 by lodging of a false FIR against them. He further submitted that such kind of usual, evasive and vague allegations against the petitioners pertaining to entrustment of property are frivolous and therefore, the present FIR is liable to be set aside and quashed especially in view of the fact that so far as the allegations of cruelty are concerned, they were not pertaining to action done within the territory of India even as per the FIR.

5. Learned Senior counsel further referred to Annexure P-3 wherein when both the son of the petitioners and respondent No.2 were staying in Australia, a divorce petition was filed and marriage was dissolved by way of a divorce order under the Family Law Act, 1975 by the Federal Circuit Court of Australia on 22.02.2017 whereby it was so directed that the divorce order has been made and such order is to take effect immediately and thereby to terminate the marriage on 23.03.2017 and in this way the marriage stood dissolved way back in the year 2017. Thereafter, the dispute with regard to the shared accommodation, financial dispute and child care and support kept on coming before the Courts of Australia from time to time and in this regard he referred to Annexure P-7 wherein the matter was settled between the son of the



petitioners and respondent No.2 in the Federal Circuit Court of Australia on 03.08.2020 whereby the dispute with regard to shared accommodation was also settled and son of the petitioners was directed to pay a sum of \$120,000/- Australian Dollars to respondent No.2 which in fact has been paid to her, regarding which, there is no dispute. Prior to that, vide Annexure P-8 dated 06.05.2020, the issue with regard to equal shared responsibility for the child was also settled, in which rather interim property orders were also passed whereby the parties obtained a joint valuation on the matrimonial property situated at 7 Galileo Way, Cranbourne West VIC 3977 with a value to be agreed between the parties and the cost be shared equally. Furthermore, vide Annexure P-9, which is a settlement arrived at between the son of the petitioners and respondent No.2/wife on 03.09.2020 wherein the entire settlement has been made and the total fund settled was stated to \$482,526.00 pertaining to the shared house accommodation, regarding which also, there is no dispute. Learned Senior Counsel submitted that in this way the entire dispute between the son of the petitioners and respondent No.2 stood settled before the Australian Court with the consent of the parties and now further prosecution in the FIR which has been lodged by respondent No.2/wife here especially against the present petitioners would amount to miscarriage of justice and an abuse of the process of law considering the totality of the facts and circumstances of the present case and therefore, prayed that the present FIR may be quashed qua the present two petitioners, who are the parents-in-law of respondent No.2/wife.

6. On the other hand, Mr. J.S. Toor, learned APP, U.T., Chandigarh has submitted that the present FIR is of the year 2016 and the son of the



petitioners and respondent No.2 have settled in Australia for a long period of time and their dispute stood settled by way of the aforesaid orders of the Australian Court vide Annexures P-3, P-7, P-8 & P-9 and since the petitioners who are old parents have been suffering for the last 9 years due to the continuation of the FIR, appropriate orders may be passed in this regard.

7. Mr. Bhupinder Banga, learned counsel for respondent No.2/wife has submitted that so far as the orders Annexures P-3, P-7 to P-9 which have been passed by Australian Court are concerned, the same is a matter of record and there can be no dispute with regard to the same. He however submitted that the mere fact that the son of the petitioners and respondent No.2 have settled their dispute in Australia and both of them are still staying in Australia does not mean that the petitioners can be absolved of their liability because at the time of registration of FIR there was an offence made out against them and therefore, they should be punished for causing of cruelty and breach of trust by not returning the dowry articles. He further submitted that some of the gold jewellery articles which were entrusted with the petitioners have also not been returned back and therefore, the present petition may be dismissed.

8. I have heard the learned counsels for the parties.

9. It is a case where some of the facts suggest that after the lodging of the FIR in the year 2016, the petitioners, who are the parents-in-law of the age of 67 years and 65 years as of today, are residents of Sirhind and the marriage was solemnized in U.T., Chandigarh and the marriage was a love marriage between the son of the petitioners and respondent No.2 and the marriage ceremony was performed with the consent of both the parents. A perusal of the FIR would show that so far as the entrustment of property is



concerned, vague and evasive allegations have been made pertaining to entrustment of property and no details have been mentioned except for ₹1 lac cash given to the son of the petitioners and by stating that some jewellery articles were given. So far as the allegations of cruelty are concerned, the same were pertaining to the husband and the same was allegedly done in the country of Australia and not within the territory of India. However, much water had flown thereafter because immediately after the marriage i.e. after about one month, the son of the petitioners and respondent No.2 went to Australia for getting settled there. A matrimonial dispute arose between them but at one point of time they even stayed together for long three years and a son was also born out of the wedlock. The matter was taken up by the Judicial Courts of Australia wherein a decree of divorce was granted vide Annexure P-3. Thereafter, with regard to other ancillary matters pertaining to the shared accommodation, financial settlement and child care and support etc. again different orders were passed vide Annexures P-7 to P-9, respectively with the consent of both the parties, regarding which, there is no dispute raised by respondent No.2. The son of the petitioners did not appear before learned trial Court in India and was declared as P.O. However, *qua* the present two petitioners, when notice of motion was issued by this Court on 03.05.2018, further proceedings *qua* them were stayed and in this way the trial never commenced after the presentation of challan.

10. This Court would therefore consider the totality of circumstances in the present case as to whether the petitioners, who are the parents in law and are of the age of 67 years and 65 years as of today should face prosecution and whether it will be in the interest of justice to continue with the proceeding *qua*



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them or not. The aforesaid facts and circumstances suggest that the matrimonial dispute between the son of the petitioners and respondent No.2 already stands settled regarding which there is no dispute and both of them have been living in Australia for a long period of time whereas the petitioners are the old aged parents against whom vague allegations have been made in the FIR and because of the same, they have been made to face prosecution.

11. At this stage, Mr. G.S. Punia, learned Senior Counsel for the petitioner and Mr. J.S. Toor, learned APP, U.T., Chandigarh apprised this Court that even respondent No.2 has now got remarried to some other person and is also having another child from the wedlock with the second marriage

12. A query was raised to learned counsel for respondent No.2 as to whether the aforesaid factual position is correct or not to which he responded that it is correct that respondent No.2 has now remarried and is also having a child from second marriage.

13. In view of the aforesaid totality of facts and circumstances, this Court is of the considered view that further continuation of proceedings against the petitioners would not only amount to abuse of the process of law but would also amount to miscarriage of justice and therefore, considering the aforesaid facts and circumstances, the present petition is allowed and the FIR bearing No.60, dated 13.07.2016, under Sections 406 & 498-A IPC, registered at Police Station Women, Chandigarh (Annexure P-1) with all consequential proceedings arising therefrom, are hereby quashed *qua* the present petitioners.

24.03.2025
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No