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

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CRM-M-43114-2021 (O&M)
Date of decision: 17.02.2026

Baljeet Kaur**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. I. S. Parmar, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of the Code of Criminal Procedure (*for short* 'Cr.P.C.'), is for quashing of FIR No. 0180 dated 05.10.2019, registered under Sections 419 and 494 of IPC (Section 120-B of IPC added later on) at Police Station Tibba, District Ludhiana along with all the subsequent proceedings having emanated therefrom.

2. The brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by respondent No. 2 Sarabjit Kaur alleging therein that she was married to Nirmal Singh (*petitioner's brother*) on 19.12.2010 as per Sikh rites. A male child, namely Prabhjot Singh, was born from the wedlock on 10.10.2011. Due to matrimonial discord, she was allegedly harassed by her husband and in-laws. Panchayats were convened

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but failed to resolve the dispute. Thereafter, her husband Nirmal Singh demanded divorce, which the complainant refused. He subsequently filed a petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act on 01.07.2016, which remained pending till 23.02.2017, when it was dismissed. During the subsistence of the said marriage and pendency of the divorce proceedings, Nirmal Singh is alleged to have solemnized a second marriage on 15.01.2017 with one Sandeep Kaur at Village Rurki Khas, Tehsil Garhshankar, District Hoshiarpur. While alleging that the second marriage of his husband was performed with the knowledge, participation and connivance of various relatives including petitioner, she prayed for taking action in the matter. After registration of the FIR, investigation proceedings were initiated. During interregnum, Nirmal Singh is stated to have died on 25.09.2020.

3. It is argued by learned counsel for the petitioner that she has been falsely implicated in the aforementioned FIR. She was the elder sister of Nirmal Singh. Due to some matrimonial discord with her brother Nirmal Singh, respondent No.2/complainant had started living at his parental house since the year 2013. Several litigations were going on between them. At a point, the dispute was amicably settled between them but they again started living separately. Subsequently, a divorce petition under Section 13-B of the Hindu Marriage Act was filed but later on, due to withdrawal of her consent by respondent No.2, the same was dismissed.

4. It is further argued by learned counsel for the petitioner that she was residing separately from her deceased brother and respondent No. 2. She had no role to play in their matrimonial life. She had been implicated in this

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only with a view to harass her, being elder sister of deceased Nirmal Singh. There is no specific or distinct allegation describing any overt act, role or active participation attributed to the petitioner in the alleged second marriage, cheating or conspiracy, except general and omnibus assertions that the relatives of Nirmal Singh were responsible for or involved in the said second marriage. A perusal of the challan report would show that it was concluded that there was no evidence available on record to prove that Nirmal Singh had solemnized any second marriage. Even otherwise, the provisions of Section 494 of IPC cannot be invoked against the petitioner. Even the ingredients of Section 419 of IPC are not made out. The continuation of proceedings against the petitioner under the FIR in question shall be nothing but a sheer abuse of the process of law. It is a fit case for quashing of the FIR by invoking inherent jurisdiction under Section 482 of Cr.P.C. With these broad submissions, it is urged that the petition deserves to be allowed.

5. Reply has been filed by the respondent No.1-State. It is argued by learned State counsel that there are specific allegations against the petitioner. It is further argued that the allegations levelled in the FIR are sufficient to make out a *prima facie* case as against the petitioner. The veracity of the allegations as levelled against the petitioner can be tested in the trial which has to take place before learned trial Court and no ground for quashing the FIR has been made out.

6. There has been no representation on behalf of respondent No. 2.

7. This Court has heard the rival submissions.

8. At the outset, it will be profitable to look into the scope and

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ambit of the Court's power under Section 482 Cr.P.C. (*which is pari materia with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023*) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific. To secure the ends of justice, to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana v. Bhajan Lal : 1992 SUPP (1) SCC 335***, wherein Hon'ble Supreme Court has discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

“102 (1) Where the allegations made in the First Information Report or the complaint, even if they are taken

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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

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personal grudge.”

9. The principles of law as laid down by Hon’ble Supreme Court in ***Bhajan Lal***’s case (supra) have been followed in a catena of judgments. In ***Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673***, it was observed by Hon’ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing such criminal proceedings, where essential ingredients of the offence are not made out. In ***Randheer Singh v. State of Uttar Pradesh, (2021) 14 SCC 626***, it was observed by Hon’ble Supreme Court that criminal proceedings cannot be taken recourse to as a weapon of harassment.

10. Reference can further be made to ***Gian Singh v. State of Punjab, (2012) 10 SCC 303***, wherein Hon’ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can further be made to ***Narinder Singh and Ors. Vs. State of Punjab : (2014) 6 SCC 466***, wherein it was by Hon’ble Supreme Court that while exercising power under Section 482 of Cr.P.C., the High Court has to examine as to whether the possibility of conviction is

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remote and bleak and continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case.

11. In ***Dhruvaram Murlidhar Sonar vs. State of Maharashtra : 2019 (18) SCC 191***, Hon'ble Supreme Court, while reiterating the parameters as laid down in ***Bhajan Lal***'s case (supra), had observed that for quashing of the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate was not called for. Appreciation of evidence was also not permissible in exercise of inherent powers. If the allegations set out in the complaint did not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.

12. In ***Neeharika Infrastructure vs. State of Maharashtra : 2021 SCC OnLine SC 315***, the Apex Court observed that the Courts ought to be cautious in exercising powers under Section 482 of Cr.P.C. They do have power to quash. The test is whether or not the allegations in the FIR disclose the commission of a cognizable offence? The merits of the allegations are not to be entered into nor the power of the investigating agency to investigate into allegations involving the commission of a cognizable offence is to be trenchd upon.

13. Now adverting to the present case. The petitioner has been booked and challaned for commission of offences punishable under Sections 419 and 494 of IPC on the allegations that she in connivance with other co-accused, who were her family members, had got the second marriage of her brother Nirmal Singh performed with one Sandeep Kaur during subsistence

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of his marriage with respondent No. 2/complainant. Section 494 of IPC reads as under:

“494. Marrying again during lifetime of husband or wife. - Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

14. A plain reading of Section 494 of IPC makes it manifest that the offence of bigamy can be committed only by a person who, having a living spouse, contracts a second marriage during the subsistence of the first valid marriage. The provision does not contemplate prosecution of relatives or third parties who are not parties to the alleged second marriage. In the present case, the petitioner is admittedly the elder sister of the deceased Nirmal Singh and not the spouse alleged to have contracted the second marriage. Therefore, the very invocation of Section 494 IPC against the petitioner is legally misconceived. The statutory framework does not permit summoning of a person, other than the husband or wife who remarries, for the substantive offence under Section 494 IPC. At best, and that too subject to specific allegations and proof, such a person could be proceeded against for abetment under Section 109 of IPC. In the absence of such foundational allegations, continuation of proceedings under Section 494 IPC against the petitioner cannot be sustained. The legal position in this regard stands well settled. In *Sham Singh v. Sarbjit Kaur, 1998 (3) RCR (Criminal) 78*, it has been categorically held that relatives of the spouse cannot be prosecuted

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under Section 494 of IPC merely on the basis of vague and omnibus allegations of participation in the alleged second marriage. It was emphasized that the offence of bigamy is personal in nature and can be committed only by the person who contracts the second marriage during the lifetime of the spouse. Similarly, in ***Balwinder Singh v. State of Punjab, 2011 (1) RCR (Criminal) 386***, this Court observed that it cannot be presumed that family members or relatives facilitated the solemnization of the alleged second marriage merely by their presence and that such persons are often unnecessarily and vexatiously roped in to settle matrimonial scores. Even otherwise, a perusal of the material collected during investigation, including the challan report, would show that no evidence was found to substantiate the allegation that Nirmal Singh had in fact solemnized any second marriage during the subsistence of his first marriage with respondent No.2, except a photograph, wherein said Nirmal Singh was seen standing with Sandeep Kaur. In the absence of proof of a valid second marriage, the very substratum of the offence under Section 494 of IPC collapses. Hence, allowing the prosecution to continue against the petitioner, who is not even alleged to be a contracting party to the marriage, would amount to a clear abuse of the process of law.

15. As regards the offence under Section 419 of IPC, the essential ingredients of cheating by personation are conspicuously absent from the allegations levelled in the FIR. There is no assertion that the petitioner impersonated any person, nor is there any allegation that she dishonestly represented herself as someone else so as to deceive the complainant or any other person. In the absence of specific averments disclosing impersonation

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and resultant deception, the offence under Section 419 of IPC is not made out even prima facie. The provision cannot be invoked in a mechanical manner without disclosure of the basic factual foundation required to constitute the offence.

16. Given the totality of the facts and circumstances, this Court is of the considered opinion that the allegations as levelled by the complainant against the petitioner, as they are, are wholly insufficient and *prima facie*, do not make out a case against her. As such, permitting the criminal process to go on against the petitioner in such a situation, would, therefore, result in clear injustice and hence, it is a fit case for this Court to exercise its inherent powers under Section 528 of BNSS (*which is pari materia with Section 482 of Cr.P.C.*) and to quash the FIR and consequential proceedings as against the petitioner and it would be unjust to force her to face the ordeal of the trial for commission of the aforementioned offences. Accordingly, the present petition is allowed. The FIR No. 0180 dated 05.10.2019, registered under Sections 419 and 494 of IPC (Section 120-B of IPC added later on) at Police Station Tibba, District Ludhiana and the consequential proceedings arising therefrom, are ordered to be quashed qua the present petitioner.

17. Miscellaneous application(s), if any, also stand disposed of.

17.02.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No