



CRM-M-15857 of 2023 (O&M) 1

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

203

**CRM-M-15857 of 2023 (O&M)
DATE OF DECISION :- 07.04.2025**

Amarjit Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. S.S. Ranghi, Advocate
with Mr. Jasinder S. Sekhon, Advocate
and Mr. Sukhan Ranghi, Advocate for the petitioner.

Mr. P.S. Bhandari, AAG, Punjab.

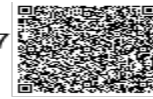
Mr. Imaan Singh Khara, Advocate for respondent No. 2.

JASGURPREET SINGH PURI, J (ORAL)

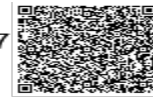
1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.02 dated 26.03.2022, under Sections 406, 498-A IPC, registered at Police Station NRI, Bathinda, District Bathinda and subsequent proceedings arising there from.

2. The translated copy of the impugned FIR as attached by the petitioner as Annexure P-1, which is reproduced as under :-

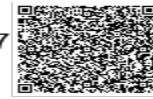
“The ADGP NRI wing SAS Nagar, Mohali, Punjab. Subject: Complaining a Case of Marriage of Convenience: Marriage/Spousal Sponsorship Fraud; harassment for the demand of dowry, Respected Sir, I, Puneet Kour, Permanent resident of Canada and Citizen of India, writing to register a complaint against my husband (Maninder Singh) and his mother (Amarjit Kaur), residing in House No.10, Street No.8, Ghuman Nagar-B, Alipur Road, Patiala, Punjab, I am writing this complaint in a very unfortunate and hard situation. I have been through a lot in my life from last one year since I got

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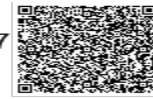
married to Maninder Singh. In October 2019, I went to visit my parents in India and that time my parents were looking/searching a boy for me to get married. My father's elder brother (Taya ji Mohinder Singh) from Sangrur, suggested us a boy from my cousin's husband's close relative. On November 2, 2019, my taya ji invited both the families (my family and Maninder's family) at his house so that we can see reach other and if like each other after interaction then we can go ahead to tie a knot. At that time, Maninder's family kept a demand of rings for their family member such as for Grandfather, Grand mother, Nana ji, Mama ji, for Maninder's father and brother, mother's Cousins and friend. They also kept the demand of chain, kada, ring and for Maninder's mother 1 kitty set (neck piece and earring) as they were from taya j's known people and my parents thought our daughter will be happy in their family, we decided to go ahead. Everybody was happy and decided to do little shagun taya j's house before engagement and that time our engagement day was kept. On November 10, 2019, we got engaged in Sangrur. After that, I returned back to Canada. We continued talking on phone almost everyday. Everything was good so far. After few month, Maninder's mother started asking for finalizing our wedding date. But I needed more time to get familiar to Maninder and also on other side due to COVID-19 pandemic everything was getting delayed. Starting from September 2020, his mom often started asking me to get married soon. I was thinking that his mother actually think good for us and wants me to come soon to India and get married to his son. After this, Maninder's family spoke to my family to decide our wedding date, on November 9, 2020, I arrived in India and on November 2020, I got married to Maninder Singh at Chhabra Resort in Bathinda. At our wedding, according to the demand of Maninder's family, my parents gave gold rings to his grandfather, grandmother, Nana ji, Mama ji, father and brother, also gave gold rings to his mother's Cousin and friend,

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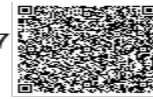
1 kitty set of Maninder's mother and gold kada, gold ring and gold chain to Maninder. At that time, after receiving all the ornaments as per their demand, Maninder's mom mentioned that as they are not spending any money on wedding and are not doing any reception party after wedding, they instead help Puneet and Maninder pay some amount for their house in Canada. My parents also said to help us in our house whenever we decide to have house in Canada, also my parents and I spent money on wedding. My parents even gave me 3 gold necklaces, 2 gold bangles, 2 gold hair clips, anklets, clothes etc.. My parents also spent money on Marriage palace, sound system, catering, food, decorations and also on the Jagger function one day before wedding day at my home etc. I purchased Iphone 12, Apple watch for Maninder and gave him on our wedding. My family approximately Spent 23 Lakhs of Indian Currency. All this and in addition to this, my parents also spent almost INR 1 Lakhs on our engagement which we did in Sangrur, Punjab in year 2019. After our marriage, I stayed with him in his house in Patiala for 15 days, got my marriage registered there and came back to Canada in December 2020. I sent my papers/all the required documents for spousal sponsorship to him in January 2021 and he later applied for his spousal sponsorship get Permanent Residence of Canada from Patiala. In meanwhile, he also requested me to apply for his visitor visa and applied it from Canada in February 2021. The get approval for his visitor visa in April 2021 After getting visitor approval and decision made status for his spousal sponsorship. In April 2021, I started realizing that Maninder and his family's behavior was little changed towards me and he and his mother started arguing with me, she would always escalate the issue instead of resolving it and would stop Maninder to talk to me. It was so stressful situation for me and I spoke to my father about it, he tried to solve the situation and spoke to Maninder's mother. During this, my parents found out that Maninder and his mother record my

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every conversation even personal conversation between me and Maninder without my consent. It was so painful and distressing to hear this for me. My parents supported me emotionally that time and gave me positively that everything will be fine even I thought the same that its only a matter of time and everything will be fine alright. I ignored all this by thinking that he is my husband and everything will be fine after sometime. Since the beginning of June 2021, we (me and Maninder) were not talking to each other as his mother stopped him not to talk to me. It was about one and a half month that we did not talk to each other and suddenly one day in July 2021, I came to know that he came to Canada and started living somewhere in Edmonton. He did not inform me, my family and anyone in India before coming to Canada. Somehow, my parents in India found out that he came to Canada on visitor visa. After this, on July 13, 2021, I went to his place where he was staying and brought him with me to my basement which I was renting. I forgot about this issues we had in India and happily welcomed him but It was still hard for me to believe that why he did not inform anybody before coming. On the same day, evening time we had some argument and his behavior was very different towards me than he used to treat me before marriage. His intentions were not to resolve the conflict instead he abused me verbally. Maninder's mother that time wanted me to leave the place which I was renting and to rent a new apartment. I explained her that right now I am financially weak and It would be hard for me to manage, after listening this she questioned my money/my earning that where my money went? Whatever I earned before marriage during this, his mother threatened me to leave me and to send him somewhere else. Somehow, I felt that his and his mother's intentions are not right, probably Maninder is here just to get Permanent Residence and not to co-exist with me as a married couple. After this, my parents again tried to resolve the situation. In August 2021, he again fought with me

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and started asking me for my earnings of before marriage and this time I faced violence, he smashed my thigh in the door, tried to punch my head, broke the wall with punch close to head, of the room, broke phone which I gave him on wedding and broke my gold bangles. My land owner whose basement I was renting. called the police as they could not tolerate his this behavior. I reported his to police, but I still decided not to take any strict action and gave him some time I wanted to save my relationship. After this, he and his mother again started forcing me to get a new apartment and leave the basement. I even did that and rented an apartment for our happiness where I was paying more money and still paying. We were good for sometime after moving to a new apartment. He started saying to me that now he needs a new phone, again and again, even I bought him a new Iphone 13 pro along with airpods. He did not stop there and after some time, he started demanding for a car for him. It was getting so stressful for me and hard for me to manage. For his demanda, I again faced physical, emotional and mental harassment over and over. At the same time, during our conflicts I faced emotional harassment from his mother from India on phone. It was my affecting my health and my daily routine, my work. Everytime he and his mother would ask for my money that where my money was goes? Why I spent money my wedding? They would always say this to me that whatever I am earning I need to give them. description of my money and I should always ask (Maninder and his mother) before spending any money and I should also send money to India to his family. They (Maninder and his mother) threatened me that if I do not fulfill their demands and don't do according to what they say, It can lead to a situation where they can leave me. They always tortured and provoked me by saying such things. Where I could not stop crying and begged them to give me time and respect my privacy but still Maninder would video record me of crying and begging in front of him, just to defame me and each time

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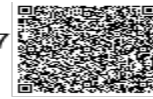
sent these videos to his mother. His mother in India went to my relatives (Taya ji) and showed my videos of crying and he in Canada showed the same videos to his friends without my consent to defame me. They also hurt the feelings of my parents by doing all this. It was so devastating for me. I started living very sad and was emotionally drained. Since the time, me and Maninder started living together in Canada, I was taking care of everything financially. I was paying rent for us, paying our phone bills, electricity bill, our every days needs such as groceries, clothes. I took him for shopping various times, bought him 1-phone 13 pro and airpods and many other things. I spent approximately 4 Lakhs of Indian currency on all this. Suddenly, In the month of December 2021, I came to know that Maninder is still planning to betray me, from his friends who are just acquainted with me. His friends called me and confirmed that my husband is trying to do fraud with me just to take PR and escape after. They told me everything what Maninder is planning for from long time and even he spoke to a lawyer about doing this to me. Maninder used discuss everything with his friends. His friends told me that even they tried to make him understand that whatever he is doing is wrong. During all this, I also found out that he was taking some kind of drugs such as: tobacco, opium etc. Which he was hiding from me and I found it from his stuff. Even his friends cleared this thing to me that he was consuming some drugs. The day when he came to know about that now I (Puneet) is aware all of his plans, intentions, he treated me very badly in front of my friend and same day (on December 23, 2021), he fled from phone to live at anonymous place. I was so stressed and this time it was hard for me to tolerate and I reported to Edmonton Police. After all this, on December 27 or 28 2021, my family and his mother in India sat together at my taya ji's home to resolve the situation. That time I also requested Maninder's mom to bring my gold jewelery so that my brother could bring



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that to Canada (which I kept at Maninder's house after wedding, I did not bring with me when coming back to Canada because his mom told me that Maninder will bring your all the jewelery when he will come to Canada, but he did not bring any). This mater did not bring my jewelery there too intentionally instead of resolving the situation, she escalated it by clearly stating at my taya ji'e home that she wanted to send his son (Maninder) to Canada which she did and she will transfer all the funds and property on her elder son's name. This all showed us that his and his mother's intentions were not to keep this relation. They just wanted to use me to get PR, spoil my reputation and to deceive for their benefit. Maninder and his mother's intention and purpose was to come to Canada and get Permanent Residence. That's the reason, he got married to me, so he could come to Canada on the basis of my papers and documents. Under the influence of his mother, Maninder physically, emotionally and mentally harassed me for fulfilling their demands. After he came to know that I am aware of all of his plant now, he fled from home at anonymous place and left me alone. I need your help. Kindly take the needed action against Maninder Singh and his mother (Amarjit Kaur). Thank you, Your Sincerely, Sd/-Puneet Kaur Date: February 1, 2021 (I authorize my father (S. Malkiat Serigh) to parvai/represent for my complaint), Email: puneetkaur331@gmail.com My Address:-Unit no: 408, 3707 white law Lane NW, Edmonton, Alberta, Canada, Postal Code: T6W 2C3. My Home Address in India:-Father Name S. Malkiat Singh #22/10853, Street No: 23, Guru Teg Bahadar Nagar, Prinda Road, Bathinda, Punjab, India PIN Code: 151001.”

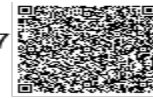
3. The brief facts of the present case as so narrated by both the learned counsel for the parties which are not disputed are that the petitioner in the present case is the mother-in-law of the complainant-wife and marriage between the son of the petitioner and the complainant respondent

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No. 2 was solemnized at Bathinda on 17.11.2020. The respondent No. 2-wife was residing in Canada from the year 2014 and she came to India for the purpose of solemnization of her marriage. The son of the petitioner was in India at the time of marriage and thereafter he went to Canada. The son of the petitioner and respondent No. 2-wife went to Canada after about 15 days of solemnization of marriage. In other words they both stayed in India for about two weeks after the marriage and now both of them are till date residing in Canada. The respondent No. 2-complainant/wife is also a permanent resident of Canada. The matrimonial dispute proceedings are also pending before the Courts of Canada which have been instituted at the instance of the son of the petitioner. There is no child born out of the said wedlock. In the present petition in which the FIR is under challenge qua the present petitioner, notice of motion was issued by this Court on 28.03.2023 and it was further directed that in the meanwhile proceedings before learned trial Court shall remain stayed qua the petitioner.

4. The son of the petitioner, who is the husband of respondent No.2 who is staying in Canada has instituted divorce proceedings there and is stated to have not come back to India thereafter and as per learned counsel Look-out Circular has been issued against him.

5. The learned counsel for the petitioner submits that the petitioner is an old lady of the age of about 60 years and is the mother-in-law of respondent No. 2-wife. He submits that it was an arranged marriage between the son of the petitioners and respondent No. 2 and at the time of marriage usual gifts pertaining to some jewellery items were given as customary gifts but the petitioner or her family members did not demand any dowry articles from the complainant or her family. He submitted that respondent No.2-wife

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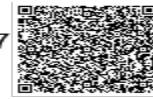
is a well educated lady and has been residing in Canada since the year 2014 and otherwise also there was no question of asking for any dowry article from the respondent-wife who was such an educated lady and settled abroad. He submitted that the entire story which has been so stated in the complaint and ultimately became a part of the FIR is false, frivolous and a concocted story, particularly pertaining to the allegations against the present petitioner and the other family members.

6. He submitted that husband of the petitioner who was the father-in-law of the complainant died on 16.12.2021 i.e. prior to lodging of the FIR and once a matrimonial dispute arose between the parties which was *inter se* between petitioner's son and the complainant/respondent No. 2-wife and, therefore, the husband of the petitioner and the petitioner herself severed their relationship with their own son so that they may settle their matrimonial dispute with their own accord being well educated and settled in Canada and in this regard an affidavit vide Annexure P-3 was sworn in by the husband of the petitioner when he was alive and also by the present petitioner that dispute occurs every time in the house of their son and respondent No. 2 also threatens that she may commit suicide and get the entire family inside jail, therefore, considering the acts and omissions of their son and their daughter-in-law they were disinherited from their property and the same was also got published in the newspaper vide Annexure P-4 on 10.06.2021 that they disinherited their children from their movable and immovable properties because they do not listen to them. It was after the aforesaid publication in newspaper that the husband of the petitioner died and it was at a much later point of time that the present FIR was lodged i.e. in the year 2022. Learned counsel for the petitioner

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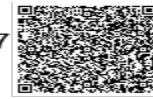
submitted that the petitioner is a widow and as per the allegations contained in the FIR, at the time of marriage the family of the complainant-respondent No. 2 had entrusted a Kitty set which is in nature of jewellery to the petitioner and thereafter it was so mentioned that total jewellery which was given in the marriage as Istridhan was taken by the petitioner and the same stand has been taken by respondent No. 2 at the time of filing of the written statement before this Court. However, in fact she had taken away all the jewellery along with her to her parental home. He submitted that so far as the allegations of cruelty are concerned the same even as per FIR pertain to the actions of the son of the petitioner after they had gone abroad and alleged to have been made in Canada and not within the territory of India except for some bald allegations that there had been a demand for dowry from the petitioner. He submitted that so far as the allegation of cruelty for invoking the provisions of Section 498A IPC is concerned, the same from a bare perusal of the FIR was not maintainable as the same did not happen within the territory of India and so far as the allegations of Section 406 IPC are concerned, vague and evasive allegations were made with regard to customary jewellery/items being given to the family of the petitioner. He submitted that even if some jewellery items had been given to the petitioner as Shagun, the same would not mean that it would entail the criminal prosecution against the widow on the ground that she has not returned the same.

7. He further submitted that the factual position is that respondent No. 2-complainant after getting married on 17.11.2020 went back to her parental house on 29.11.2020 i.e. just after 11 days and from there she went to Canada on 06.12.2020 and she remained in the house of the petitioner for

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11 days only and she remained in India for just two weeks and thereafter went back to Canada and is settled there till date. While going to her parental house she had rather taken her entire jewellery along with her regarding which he has also attached various photographs along with the present petition as Annexure P-9 which are photographs from Canada of the year 2021 wherein at that point of time when the son of the petitioner and respondent No. 2 were living together she was wearing jewellery which appears to be the bridal set. Various photographs have been attached with the present petition wherein she had been wearing the jewellery but at the time when she lodged the FIR and filed the reply in the present case she has taken up a stand that the entire jewellery has not been returned and therefore, on the face of it contrary and inconsistent stand has been taken by her.

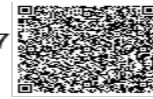
8. Learned counsel further submitted that the petitioner, who is widow of the age of 60 years is an old lady who is a patient of Cancer i.e., Breast Cancer and in this regard he has referred to Annexure P-2 to show that she had been taking treatment from Fortis, Mohali even prior to the marriage regarding which he has attached list of the appointments and the dates on which she has gone actually to the hospital for Chemotherapy and some of the dates were 06.11.2020, 09.11.2020, 11.11.2020, 13.11.2020, 30.11.2020, 13.12.2020, 16.12.2020 and 19.12.2020 to show that she had been taking Chemotherapy from Fortis even at the time when the marriage took place and she is having acute health hazards pertaining to the after effects of Chemotherapy being patient of Breast Cancer and considering the aforesaid facts and circumstances, institution of criminal prosecution against the petitioner was an abuse of process of law.



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9. Learned counsel also referred to the judgment of the Hon'ble Supreme in the case of '*State of Haryana and others Vs. Ch. Bhajan Lal and others*', 1992 SCC (Cri.) 426 to contend that considering the facts and circumstances where the criminal proceedings are manifestly attended with malafide and where the proceedings are 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 then the FIR can certainly be quashed on this threshold. He also submitted that now it is a settled law that the parents in law and near family members are normally roped into the FIR filed by the wife in matrimonial disputes and the present is a classical example where the petitioner has been roped in and also submitted that considering the aforesaid facts and circumstances regarding the status of the parties and the total duration for which the complainant stayed in India and the fact that she is residing in Canada from the year 2014, which is almost 11 years and is a permanent resident of Canada and apart from the fact that the matrimonial proceedings are pending before the Courts of Canada, the present FIR may be quashed qua the present petitioner.

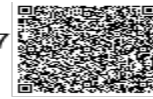
10. On the other hand learned State counsel submitted that as per the FIR and the challan presented direct allegations have been levelled against the petitioner pertaining to the entrustment of part of the jewellery and retention of some or the entire jewellery articles by the present petitioner. He submitted that the mere fact that the petitioner is a mother-in-law and the complainant is residing abroad will not mean that it can become a ground for quashing the FIR.



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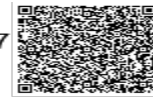
11. Learned counsel appearing on behalf of complainant respondent No. 2-wife submitted that it is a case where he does not dispute the fact that the marriage had taken place in India on 17.11.2020 and respondent No. 2-wife went to Canada in two weeks time i.e. on 06.12.2020 and that she had been staying there for the last 11 years and is a permanent resident of Canada. He submitted that, however, at the time when the marriage had taken place various jewellery items including the Kitty set which comprises of necklace etc. was specifically entrusted with the petitioner being mother-in-law and she had retained the entire jewellery with her which had not been returned back to the complainant and therefore, the offence of Section 406 IPC was made out. He submitted that some of the jewellery items were given to respondent No. 2-wife by her relatives which were also entrusted to the petitioner. He further submitted that no doubt that both son of the petitioner and respondent No. 2 were residing in Canada for long time and still they are residing there but that will not absolve the petitioner from the liability with regard to non recovery of the jewellery items. He submitted that so far as the photographs which have been shown by the petitioner and attached with the present petition whereby it is shown that respondent No. 2 was wearing some jewellery in Canada are concerned, the same would not suggest that the entire jewellery was worn by her, admittedly the photographs to be correct, she was only wearing some of the jewellery. He submitted that the fact as to whether the petitioner has retained or returned the jewellery of the respondent No. 2 can only be seen at the time of trial and therefore, the petition is liable to be dismissed.

12. I have learned counsel for the parties.

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13. It is a matrimonial dispute between son of the petitioner and respondent No. 2. Some of the facts which were not disputed by learned counsel for the parties have been so stated above. The son of the petitioner is residing in Canada from the year 2021 onward and the complainant wife is residing in Canada from the year 2014 onward which is almost 11 years and is stated to be a permanent resident of Canada. Matrimonial proceedings are pending between them in Canada. Here is a petition which has been filed by the mother-in-law who is a widow of the age of about 60 years. She has knocked at the doors of this Court by stating that she is a Cancer patient and was subjected to repeated Chemotherapies at the time of solemnization of marriage and to substantiate, learned counsel for the petitioner has placed on record the record of medical appointments which are annexed as Annexure P-2 which are pertaining to some of the dates prior to the marriage and some of the dates after the marriage. However, during the course of arguments, learned counsel for respondent No. 2 has pointed out that the petitioner is hale and hearty because she had been attending some of the mediation counseling rounds, therefore, the mere fact that she is suffering from Cancer cannot absolve her from the liabilities.

14. A perusal of the FIR would go to show that the same has been registered in the year 2022 i.e. on 26.03.2022. The marriage took place on 17.11.2020 i.e. after more than one year the FIR was registered. At the same time it is undisputed fact that after the marriage was solemnized on 17.11.2020 both the son of the petitioner and respondent No. 2-complainant went back to Canada just after two weeks of the solemnization of the marriage and it was after about 1 year and 04 months that the FIR was registered at her instance by stating that immediately after the marriage some



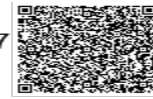
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jewellery items which have been so stated in the FIR were entrusted with the petitioner which had been retained by her. At the same time, learned counsel for the petitioners has also referred to Annexure P-3 and P-4 to state that when her husband was alive after the marriage of the son of the petitioner then both the petitioner and her husband rather disinherited their own son and daughter-in-law since they were not listening to them and the same was also published in newspaper vide Annexure P-4.

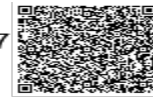
15. The law with regard to the quashing of the FIR and criminal proceedings is well settled. The Hon'ble Supreme in the case of '***State of Haryana and others Vs. Ch. Bhajan Lal and others***', 1992 SCC (Crl.) 426 has laid down various parameters pertaining to as to under what circumstances the FIR should be quashed 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.*
108. *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking*

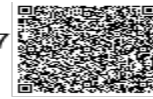


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upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.”

16. With regard to quashing of the FIRs lodged by the complainant in matrimonial disputes against the parents or the relatives of husband are concerned, the aforesaid judgment of Hon’ble Supreme Court has been dealt with in detail by a recent judgment of Hon’ble Supreme Court in the case of **‘Achin Gupta versus State of Haryana and Anr. 2024(2) RCR (Criminal) 880** decided on 03.05.2024. One of the parameters was so contained in sub para No. 7 of para No. 10 that where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private or personal grudge then FIR can be quashed. It was held that considering category No. 7 as aforesaid referred to in the judgment of Hon’ble Supreme Court the same is to be applied in such like cases in a liberal manner. Various other parameters were also laid down by Hon’ble Supreme Court.

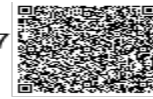
17. Hon’ble Supreme Court observed that if the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even the FIR and the charge sheet disclose the commission of a cognizable offence, the Court with a view to do substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter and if the submission canvassed by the counsel appearing for the complainant and the State is to be accepted in a mechanical manner then the very conferment of



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the inherent powers by the Cr.P.C upon the High Court would be rendered *otiose*. Hon'ble Supreme Court further observed that many times the parents including close relatives of wife make a mountain out of a mole and instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The relevant portion of the judgment of Hon'ble Supreme Court in the case of '***Achin Gupta versus State of Haryana***' (*supra*) is reproduced as under :-

“31. We are of the view that the category 7 referred to above should be taken into consideration and applied in a case like the one on hand a bit liberally. If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter. If the submission canvassed by the counsel appearing for the Respondent No. 2 and the State is to be accepted mechanically then in our opinion the very conferment of the inherent power by the Cr.P.C. upon the High Court would be rendered otiose. We are saying so for the simple reason that if the wife on account of matrimonial disputes decides to harass her husband and his family members then the first thing, she would ensure is to see that proper allegations are levelled in the First Information Report. Many times the services of professionals are availed for the same and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands



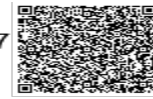
in helplessness, saying that whether true or false, there are allegations in the First Information Report and the chargesheet papers disclose the commission of a cognizable offence. If the allegations alone as levelled, more particularly in the case like the one on hand, are to be looked into or considered then why the investigating agency thought fit to file a closure report against the other co-accused? There is no answer to this at the end of the learned counsel appearing for the State. We say so, because allegations have been levelled not only against the Appellant herein but even against his parents, brother & sister. If that be so, then why the police did not deem fit to file chargesheet against the other co-accused? It appears that even the investigating agency was convinced that the FIR was nothing but an outburst arising from a matrimonial dispute.

32. Many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is the panacea of all evil. No sooner the matter reaches up to the Police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of

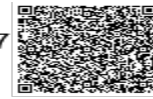


the parties, their character and social status. A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. In all cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty.”

18. The facts of the present case would suggest that it is not a case that the son of the petitioner and the respondent No. 2-wife after marriage stayed here in India with family and that they are still staying so that the matrimonial dispute aggravated but it is a case where admittedly the complainant was residing in Canada from the year 2014 and she had come to India for marriage purposes only and stayed in India only for two weeks and

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left for Canada. Similarly the son of the petitioner also came to India and went back to Canada and they were living together there and are facing each other in the matrimonial Court in Canada. Here in India the petitioner is the mother of husband who is a widow of 60 years of age and is a Cancer patient. She is required to face prosecution on the basis of the allegations made by respondent No. 2 that some of the jewellery items have not been returned back. A perusal of the FIR would show that so far as allegations of cruelty are concerned except for making an allegation that there was a demand of dowry in India the remaining allegations are pertaining to the allegations in Canada and therefore, so far as Section 498A of the IPC is concerned, the allegations are pertaining to act committed not within the territory of India. So far as the allegations pertaining to Section 406 IPC are concerned it is a normal custom that some jewellery items are given by the parents of the girl to the husband and to the other relatives. The same might have been given in the present case. The same may be in the nature of Shagun. It was the case of the counsel for the petitioner that the entire jewellery articles were taken back by the wife whereas it was the case of the counsel for respondent No. 2 that the same have not been returned. Although this aspect can be seen only at the time of trial but the question for determination for this Court would be that as to whether in the over all facts and circumstances of the present case where both of them left for India just after two weeks of the marriage and they are staying there for a long period of time can the old widow of the age of 60 years a Cancer patient be further subjected to prosecution or not. In the present case this Court is of the considered view that a pragmatic view has to be taken considering the facts and circumstances of the present case in the light of the law laid down by



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Hon'ble Supreme Court in the case of '*Achin Gupta versus State of Haryana and Anr.*' (supra).

19. Learned counsel for respondent No. 2 has referred to the judgment of Hon'ble Supreme Court in the case of '*Bhaskar Lal Sharma & Anr. Versus Monica*', 2009(10) SCC 604. This Court is of the considered view that the aforesaid judgment is distinguishable on facts from the present case. In the facts and circumstances of that case it was held by Hon'ble Supreme Court that allegations against appellant No. 2 of that case *prima facie* fall within the purview of Section 406 IPC.

20. This Court is satisfied that further continuation of prosecution against the petitioner in the light of the aforesaid extraordinary circumstances as so stated, it is a fit case to invoke extra ordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure in order to prevent the abuse of process of law and to avoid miscarriage of justice.

21. Consequently, the present petition is allowed and the FIR No.02 dated 26.03.2022, under Sections 406, 498-A IPC, registered at Police Station NRI, Bathinda, District Bathinda along with all other consequential proceedings are hereby quashed qua the petitioner.

22. All pending applications (if any) shall also stand disposed of.

(JASGURPREET SINGH PURI)
JUDGE

07.04.2025
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No