



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

CRM-M-19107-2020 (O&M)

Reserved on: 22.07.2025

Pronounced on: 05.08.2025

Zorawar Singh

..... Petitioner

VERSUS

Charanjit Singh and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. Siddharth Singh, Advocate, and
Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Hitesh Sood, Advocate for respondent No.1.

Ms. Aakanksha Gupta, AAG, Punjab
for respondent No.2.

KIRTI SINGH, J.

1. The petitioner has filed the present petition under Section 482 of Cr.P.C. with prayer to quash the complaint No.113 dated 19.11.2015, under Sections 498-A, 406, 506 and 34 IPC, the summoning order dated 9.6.2017, summoning the petitioner for offence under Section 498-A & 506 IPC and all subsequent proceedings arising therefrom.

2. Succinct factual narrative relevant for the disposal of the instant petition is that the marriage between the petitioner and daughter of the complainant (hereinafter referred to as *XXX*), was solemnized on 30.8.2014 at Jalandhar. The parties stayed at India only for a period of 03



days after their marriage, and after a short vacation in Mauritius, moved to Canada and started residing there. Matrimonial discord crept in due to the temperamental differences between the parties, whereafter the petitioner instituted a divorce petition on 30.1.2015 in Canada, which decreed by a certificate of divorce dated 27.4.2016 to be effective from 31.4.2016. However, during the pendency of divorce proceedings in Canada, two complaints were instituted by her mother and XXX on 20.4.2015 and 12.5.2015 respectively, both of which were consigned to record. It was on the third complaint instituted by respondent No.1 on 19.11.2015, under Sections 406, 498-A, 506 & 34 IPC against the petitioner and his family members, in which the learned trial Court, issued process against the petitioner under Section 498-A & 506 IPC vide summoning order dated 9.6.2017, which is sought to be quashed.

Submissions made by the learned senior counsel for the petitioner

3. At the outset, learned senior counsel appearing of the petitioner has challenged the maintainability of the complaint dated 19.11.2015 and the summoning order dated 9.6.2017. He submits that it is an admitted fact that on 4.9.2014, 04 days after the solemnization of marriage between the petitioner and XXX on 30.8.2014, they left for their honeymoon to Mauritius and thereafter moved to Calgary (Canada), which was their matrimonial home after marriage. 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 *malafide* intentions of the complainant-respondent No.1 can be seen from their past conduct, whereby, after the petitioner was arrested by the Canadian police in a false complaint moved by XXX, a huge amount of 60,500 CAD was transferred from their joint account by XXX without the consent of the petitioner. When the same was brought to the notice of the authorities, the amount was directed to be returned back to the petitioner. Similarly, another order was passed on the representation made by the petitioner through his attorney on 26.2.2015 in the Calgary Court for the return of keys of the vehicle belonging to the petitioner and to also make efforts to retrieve and return his passport and travel documents. It was under these circumstances that the petitioner, having suffered immense harassment at the hands of his wife and her family, moved a petition for divorce on 30.1.2015 before the Court of Queen's Bench, Alberta, which was finally decided and marriage was dissolved by a certificate of divorce dated 27.4.2016 to be effective from 31.4.2016.

5. It is highlighted that post the institution of divorce proceedings by the petitioner, no complaint was made by XXX at Canada. Rather, during the pendency thereof, a complaint was filed through the mother of XXX against the petitioner on 20.4.2015 before the Senior Superintendent of Police, Hoshiarpur, which was consigned to record



after finding no substance in the allegations. Thereafter, another complaint dated 12.5.2015 was filed before I.G (NRI Wing), in which too all the allegations were found to be misfounded and it was recommended that the complaint be filed. Subsequently, respondent No.1 on 19.11.2015, instituted a private complaint against the petitioner and his family members, in which the learned trial Court though found that neither *prima facie* offence under Section 406 IPC against any of the accused arrayed in the complaint was made out and nor was there sufficient evidence 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 & 506 IPC vide the impugned summoning order dated 9.6.2017. 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.

6. Learned senior counsel submits that once the matrimonial ties between the parties had been legally severed by the Canadian Court, 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. 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. Further still, despite the information regarding the petitioner residing abroad being well within the knowledge of the complainant and also being evincible from the record of the case, proclamation was issued against the petitioner without following due process prescribed under sections 82 and 105 Cr.P.C., which is also not sustainable and deserves to be set aside. 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 State counsel as well as counsel for respondent No.1-complainant

7. Per contra, learned State counsel and the learned counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the petitioner.

8. Learned counsel for the complainant-Respondent No.1 submits that the petitioner in connivance with other accused took possession of dowry articles (*istridhan*) of the daughter of the complainant and misappropriated them. The accused persons are guilty of demanding money from time to time from the daughter of the complainant and causing atrocities to her. In his complaint, respondent



No.1 leveled categoric 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 after a 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 09.06.2017 under sections 498A and 506 IPC. It has been further argued that the present petition is liable to be dismissed as all the contentions raised by the learned senior counsel herein are disputed question on facts, which can be determined only after the evidence is produced before the learned trial Court. It is submitted that despite summoning order having being passed against the petitioner, he failed to put in his appearance, and thus cannot be allowed to raise all the pleas at this stage.

Inference(s) of this Court

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

10. Conceded position that emerges from the judicial record is that the marriage of the petitioner and the daughter of the complainant was solemnized on 30.8.2014 at Jalandhar, and the parties left for abroad shortly after in September, 2024. As per the undisputed submission, the couple never visited India after 04.09.2024. On account of temperamental differences, the petitioner filed for a divorce petition in Canada on the ground of irretrievable breakdown of marriage on 30.01.2015, which was



decreed by the Court of competent jurisdiction there on 27.04.2016. Two complaints dated 20.4.2015 and 12.5.2015 moved in the interregnum by the wife and daughter of the complainant respectively before the authorities in India were consigned to record on the ground of no allegation being made out. Thereafter, complaint respondent No.1 moved the impugned private complaint on 19.11.2015. A bare perusal of the same reveals that sweeping allegations were leveled against the accused persons therein, majorly with respect to offences purportedly committed in Canada, without mentioning the factum of litigation previously instituted between the petitioner and his daughter at Canada, including divorce proceedings. It is also pertinent to note here that both the petitioner and the daughter of the complainant have, after decreeing of their divorce, have 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. It is also evident from the material on record that the factum of residence of the petitioner being abroad was in the knowledge of the complainant. The server report (Annexure P-11) presented before the trial Court also reveals that it was brought to the knowledge of the Court that the petitioner had not resided at his Indian address for the past 4-5 years and had shifted his address. It was under these circumstances that the proclamation proceedings were initiated against the petitioner.



11. In the authoritative pronouncement of the Hon'ble Supreme Court in *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, 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 whereof 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"*

12. 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."



13. 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.*

*12. Further, the learned counsel for the petitioners have been found justified in contending that the petitioners have become the victims of unhealthy and general tendency of implicating maximum members of the family of the husband, at the instance of the complainant-wife. Having said that, this **Court** feels no hesitation to conclude that since the impugned FIR and the criminal proceedings arising therefrom, amount to blatant misuse of process of **court**, the same cannot be sustained.*

XXX

XXX

XXX

*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.*

XXX

XXX

XXX



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.*

18. *In the normal circumstance, this **Court** would not permit any proclaimed offender to invoke inherent jurisdiction of this **Court** under Section 482 Cr.P.C. for **quashing** of the criminal proceedings. However, instant cases have been found to be exceptional cases in this regard, reason being the mala fide intention of the complainant right from day one. It is so said, because she was fully aware about this material fact that two of her sisters-in-law namely Raj Deep Kaur and Kanwaljit Kaur Man as well as her husband were residing in **Canada**. In spite of this fact, the complainant got all these three petitioners declared as proclaimed offenders, while withholding the above-said material fact from the notice of the learned trial **Court** and misleading everybody including the learned trial **Court**, in this regard. It is not even the argued case on behalf of the respondents before this **Court** that these three proclaimed offenders were ever sought to be served at their respective addresses of **Canada**. In such a situation, when none of the proclaimed offenders-petitioners ever intended to absent from the **court** proceedings, they could not have been declared as proclaimed offenders. If such an order is allowed to stand, it shall result in serious miscarriage of justice and would amount granting premium to a wrong doer.”*

14. 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.

15. As a corollary, the present petition stands allowed. The complaint bearing No.113, dated 19.11.2015 under Sections 498-A, 406, 506 & 34 IPC and all subsequent proceedings, including the summoning

2025:PHHC:100042



CRM-M-19107-2020 (O&M)

12

order dated 9.6.2017, and the proclamation proceedings against the present petitioner are hereby quashed by this Court.

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

(KIRTI SINGH)
JUDGE

05.08.2025

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No