



wishes of parents of Manpreet Kaur. The petitioner and Manpreet Kaur also filed CRM-M-42614 of 2018 before this Court for grant of protection as they apprehended threat to their lives and vide order dated 27.09.2018 (Annexure P-2), this Court directed the Senior Superintendent of Police, Sangrur to inquire as to whether the petitioners need any protection and if so, he would do the needful. After the marriage, differences arose between the petitioner and Manpreet Kaur as she was pressurizing the petitioner to reside separately from his parents. She left the matrimonial home and the petitioner filed a suit for restitution of conjugal rights. During the pendency of the suit, Manpreet Kaur compromised with the petitioner and the suit was withdrawn from the Court of Additional Civil Judge (Senior Division), Malerkotla on 04.10.2019. Learned counsel further contends that even after compromise, the behaviour of Manpreet Kaur did not change and she continued to harass the petitioner. Ultimately, the petitioner and Manpreet Kaur were blessed with a baby boy and she took away the child with her. The petitioner was constrained to file a petition, seeking the custody of a minor child, on 08.07.2020 and the litigation is pending between the parties. As a counter blast to the suit filed by the petitioner on 08.07.2020, Manpreet Kaur got registered one FIR No.191 dated 28.10.2020, under Section 498-A IPC against the petitioner at Police Station Sadar, Ahmedgarh, District Sangrur (Annexure P-3). The petitioner was arrested in the FIR and was suspended on 18.01.2021. Thereafter, a show cause notice dated 03.02.2021 (Annexure P-4) was issued to him by the respondent-department. The petitioner submitted his reply dated 22.02.2021 (Annexure P-5) and requested for withdrawing the notice. However, without looking into the reply, respondent



no.2 passed the impugned order dated 05.08.2021 (Annexure P-6) and ordered the removal of the petitioner from service. Learned counsel further contends that the petitioner was granted the concession of bail on 17.11.2021 (Annexure P-7). He further contends that the only ground for removal from services that the FIR has been registered against him under a serious offence. He next contends that in fact, there was a matrimonial dispute between the petitioner and Manpreet Kaur and the offence under Section 498-A of IPC did not fall under the category of heinous offences. Moreover, there was no complaint from any corner against him and he was performing his duties as per law. Even, it is well settled that mere registration of FIR against any person will not constitute any misconduct and even charge sheet was filed against him.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that admittedly, the FIR under Section 498-A of IPC was registered against the petitioner and he had been removed from service after following the legal procedure and after granting him opportunity of hearing.

4. I have heard learned counsel for the parties and perused the record carefully.

5. In the present case, admittedly the petitioner has been removed from service only on the ground of registration of an FIR against him which is relating to his matrimonial life. Even the FIR had not been registered by the department and there was no blemish against him. In fact, the mere registration of the FIR against him cannot be equated with a finding of guilt, recorded by a Competent Court. Consequently, the removal of the petitioner from service only



on the said ground would be totally unwarranted. In fact, this Court would draw support from the observations made by the Rajasthan High Court in the matter of **“Harsh Gupta versus Rajasthan State Electricity Board, 1995 (1) SCT 485**, wherein the Hon’ble High Court has held as observed:-

“On the merits of the case, I would like, once again, to make it clear that at the time of selection, the petitioner had no blemish whatsoever against him. The only material which came into existence after his selection is in the form of registration of first information report against almost all the members of the family of the petitioner roping them in an offence under Section 498A I.P.C. The question is, whether mere registration of a case by the police can be made the basis for holding that the petitioner's character is doubtful or unsatisfactory. The answer of this question will depend on as to whether registration of a case by the Police can be equated with a finding of guilt recorded by a competent Court or Tribunal. Registration of a case simpliciter does not automatically result in conviction of a person. It does not per se cause a stigma on character of a person. Therefore, the information which the police had forwarded to the authorities of the Board regarding the character of the petitioner was misleading. Apparently, the authorities of the Board have, without applying their mind, mechanically acted on the report sent by the police authority at Ajmer. Authorities of the Board never bothered to find out as to what is the nature of the allegation levelled against the petitioner; what is the stage of the case and as to whether the petitioner has been found guilty of an offence. I am of the considered opinion that action which the respondent-Board has taken is not in terms of para 6 of the order of appointment dated 23.11.1991. This view of mine is fully supported by D.B. judgment of this Court in Gopi Lal v. State of Rajasthan and another, [1989(2) RLR 748]. The Division Bench has observed as under:



"We may, therefore, sum up that the service of a Government servant cannot be terminated or the Government servant cannot be discharged from service only on account of the pendency of a criminal case against him. The reason is obvious. Unless the guilt is proved, one is presumed to be innocent. Moreover, criminal case may be launched out of enmity etc. It is, therefore, the conviction and not the pendency of a criminal case which should be taken into account for disciplinary action."

6. Similarly, this Court had examined the validity of a termination order passed by the State of Punjab in respect of a teaching fellow merely on account of registration of an FIR in CWP No.4948 of 2010, "Gurchetan Singh Atwal Vs. State of Punjab and others", decided on 01.02.2021 and a Coordinate Bench has held as follows:

"Admittedly, the petitioner has not been convicted by any competent court of law. Simply on registration of an FIR and that too by the wife of the petitioner, the petitioner's services have been terminated. Mere registration of the FIR does not in any manner establish the allegations in the FIR or disprove the character of the petitioner unless the petitioner is convicted in criminal offence by competent court of law. No rule or law has been brought to the notice of this Court by the State counsel justifying the impugned order. The impugned order is per se bad in law and is liable to be set aside."

7. In the present also, admittedly, the FIR under Section 498-A IPC was got registered against the petitioner by Manpreet Kaur, wife of the petitioner. There is no allegation that the petitioner had committed any offence, while performing his duties under the respondent-department. However, a



teacher cannot be removed only on the ground of mere registration of the FIR and the impugned order is legally unsustainable.

8. Consequently, the impugned order dated 05.08.2021 (Annexure P-6) is ordered to be set aside and the petitioner shall be allowed to rejoin the duty within a period of one week from the date of receipt of certified copy of this order. The petitioner shall not be entitled to the financial benefits for the period, he remained out of job. However, the period of termination will not be construed as break-in service and he shall be entitled to all the consequential benefits in the nature of seniority, pay fixation etc.

9. The present petition stands allowed in the above terms.

10. Pending application, if any, stands also disposed of.

27.08.2025

hemlata

(N.S.SHEKHAWAT)
JUDGE

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