

# Barinder Pal Singh Manchanda & Ors vs State & Anr on 31 July, 2024

\$~21

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CRL.M.C. 1595/2019 & CRL.M.A. 6371/2019

BARINDER PAL SINGH MANCHANDA  
& ORS.

Through: Mr. Jai Bansal,  
Abhishek Verma,  
Tarun Satija an  
Jagdish Chander

versus

STATE & ANR.

Through: Mr. Raj Kumar, A  
the State with  
Yadav, Mr.  
Chauhan, M  
Threhan, Ms. An  
Surana, Mr. Vip  
Mr. Sumit Sharm  
Pankaj Trehan a  
Kanav Gaba, Adv  
SI Mithlesh, 4t  
Kingway Camp De  
SI Pawan Kumar,  
Mukherjee Nagar  
Ms. Anu Narula,  
R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN  
ORDER

% 31.07.2024

1. The present petition was filed way back in the year 2019 seeking quashing of the FIR No. 682/2017 dated 09.09.2017, registered at Police Station Mukherjee Nagar, for offences under Sections 498A/406/34 of the Indian Penal Code, 1860 (IPC) and the charge sheet dated 07.05.2018.

2. The present FIR was registered at the behest of Respondent No. 2 alleging harassment on the ground of demand This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/08/2024 at 00:01:38 for dowry and usurpation of the share in the household property against the petitioners. Respondent No. 2, at the relevant time, was married to Petitioner No. 1 and Petitioner Nos. 2 to 4 are the family

members of Petitioner No. 1. It is alleged that since the day of the marriage, Respondent No. 2 was being humiliated, harassed and tortured in relation with the demand for dowry.

3. For some reason or the other, the matter has been kept pending. From February 2020 to March 2022, the matter could not be heard due to the onset of COVID-19.

4. The learned counsel for the petitioners submits that the petitioners have been unnecessarily implicated in the present case.

5. He submits that the parties, pursuant to the registration of the present FIR, were also involved in litigations before the competent Courts in the United States of America (USA).

6. He submits that the orders passed by the Courts in USA, show that no offence has been made out and that Respondent No. 2 was not subjected to cruelty for any demand for dowry.

7. It is undisputed that certain orders have been passed in the proceedings between the parties, pursuant to the registration of the present FIR.

8. It cannot be denied that the orders passed by the competent Courts in the USA in the proceedings between the parties which arise out of a matrimonial dispute, would be relevant in the proceedings arising out of the present FIR.

9. The learned counsel for Respondent No. 2 fairly states that she has no objection if the documents in regard to the proceedings between the parties are placed before the learned Trial Court.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/08/2024 at 00:01:38

10. She, however, submits that the number of documents which have been relied upon in the present petition are not admitted, and only the Court records are admitted.

11. The charge sheet, in the present case, has already been filed.

12. The learned Additional Public Prosecutor for the State, on instructions, submits that the documents as mentioned above, have already been provided to the Investigating Officer. It is, however, not clear whether the same has been made part of the charge sheet or has been brought on record of the learned Trial Court for its consideration while hearing the arguments on charge.

13. While the exercise of power under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) is not barred when there is an alternative remedy, a litigant cannot be allowed to circumvent or subvert the due procedure of law on mere apprehension of a long-drawn litigation.

14. The Hon'ble Apex Court in the case of Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736 has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings. The relevant portion of the same is reproduced hereunder:

"12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few--Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/08/2024 at 00:01:38 (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 :

2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the

complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not."

(emphasis supplied) This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/08/2024 at 00:01:38

15. It is true that the Court in case finds that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance, ought to look into the FIR with care and little more closely. The Court can look into the attending circumstances emerging from the record of the case and can read between the lines. If the allegations are far-fetched and it appears that the provisions of Section 498A of the IPC are misused, since it has become an increased tendency to implicate the relatives in the matrimonial disputes, the Court can interfere while exercising powers under Section 482 of the CrPC. [Ref. - Achin Gupta v. State of Haryana & Another : 2024 SCC OnLine SC 759 ; Abhishek v. State of Madhya Pradesh : 2023 SCC OnLine SC 1083 and Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors. : (2022) 6 SCC 599]

16. In the present case, specific allegations have been made against the petitioners though, it is contended that no offence is made out and strong reliance is placed on the orders passed in the proceedings before the competent Court in the USA.

17. At this stage, it cannot be said that the allegations made in the complaint do not constitute any offence against the petitioners. It is contended that the present FIR is outcome of vexatious and frivolous allegations made with ulterior motive of wreaking vengeance. The allegations have been made against the family members of the husband even though the parties had been residing in USA. In support of the contention, reliance is sought to be placed on the orders which are passed subsequent to registration of FIR by the competent Courts in USA.

18. As noted above, the entire evidence including the documents in regard to proceeding before the Court in USA have This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/08/2024 at 00:01:38 been placed before the learned Trial Court. Admittedly, the learned Trial Court has power to consider the same and pass appropriate order.

19. Since the matter is pending before the learned Trial Court and undisputedly the learned Trial Court has power to consider all arguments after perusing the evidence that is brought on record, this Court does not consider it apposite to entertain the present petition.

20. As noted above, Respondent No. 2 has no objection if the documents in regard to the proceedings between the parties are placed before the learned Trial Court and an appropriate order is passed.

21. In view of the above, the petitioners are permitted to file all the necessary documents before the learned Trial Court.

22. The learned Trial Court is directed to pass an appropriate order on charge after considering the same and hearing the objection of Respondent No. 2 in regard to the admissibility of the said documents in accordance with law.

23. The present petition is disposed of in the aforesaid terms.

24. Needless to state, it is open to the petitioners to take all their defences before the learned Trial Court and are at liberty to approach this Court in case any grievance remains.

25. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J JULY 31, 2024 'KDK'/SS This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/08/2024 at 00:01:38