

Sr.No.101

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

COCp-3281-2014(O&M)

Decided on: **02.11.2015**

Nirmal Singh @ Dharam Singh and anotherPetitioners

vs.

Sukhwant Singh GillRespondent

Coram: Hon'ble Mr. Justice Mahesh Grover

Present: Mr. G.S.Saini, Advocate for the petitioners.

Mr.Anant Kataria, DAG, Punjab.

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Mahesh Grover, J

The petitioners pray for appropriate action to be taken against the respondents under the provisions of the Contempt of Court's Act in view of the violations of the directions given by the Hon'ble Supreme Court deprecating automatic arrest of a person involved in a case under Section 498-A IPC without compliance of provisions of Section 41 Cr.P.C.

The petitioners and the complainant in a case registered vide FIR No.04 dated 31.10.2014 are both Non Resident Indians. The complainant had preferred a complaint to the Inspector General of Police, NRI and Women Wing, Phase VII, Mohali making serious allegations of the petitioners attempting to outrage her modesty in a drunken condition and attack her son in the process. Both the parties are residing at Canada and there appears to be some serious dispute regarding a house and other properties. The complaint was given on 20.10.2014 and FIR was registered on 31.10.2014 and the petitioner arrested on 01.11.2014.

The respondents have filed their reply justifying the arrest which according to them is in accordance with law. It has also been stated further that the situation warranted the arrest of the petitioners as there was apprehension of violence to the complainant and her son and therefore, noticing the other allegations which were distinct from the acquisitions under Section 498-A IPC, the arrest of the petitioners were necessitated.

On due consideration on the matter, I am of the view that no cause for proceeding

against the official respondents under the Contempt of Court's Act has been made out for the simple reason that there have been other serious allegations which the police officials were bound to look into when brought to their notice and it is not a case simpliciter where the accusations under Section 498-A IPC have been made by a disgruntled wife in a marital discord. After the complaint the police took almost 11 days to arrest the petitioners even though it was one day after the registration of the FIR.

I do not find this to be a clear case to conclude against the respondents of having violated the directions given of the Hon'ble Supreme Court. The marriage is 15 years old, therefore, the facts do not suggest an immediate dispute and cruelty within short duration of marriage, which ordinarily is the case but facts are suggestive of violence, warranting appropriate action.

In any case since there can't be any inference of violation and disobedience, it is not a fit case to proceed under the Contempt of Court's Act.

Disposed of.

However, in case the petitioners feel that it is a case of wrongful arrest, they would be at liberty to take recourse of their other remedies available to them in accordance with law.

02.11.2015
mamta

(MAHESH GROVER)
JUDGE