

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

CRM-M-13298 of 2013
Date of Decision: 03.03.2015

Manjit Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Harsh Aggarwal, Advocate
for the petitioners.

Mr. Ashish Sanghi, DAG, Punjab.

Mr. Harender Singh, Advocate for
Mr. J.S. Gill, Advocate
for respondent No.3.

SNEH PRASHAR, J.

1. This is a petition for quashing of FIR No.153 dated 01.10.2011 registered under Sections 420/376/120-B of the Indian Penal Code at Police Station Raikot, District Ludhiana (Rural) with all subsequent proceedings thereto.

The order dated 25.04.2012 passed by Learned Judicial Magistrate First Class, Jagraon, declaring the petitioners proclaimed offenders in the present FIR was challenged as illegal, arbitrary, null and void.

2. The facts submitted in the petition were that Manjeet Singh - petitioner No.1 was engaged with complainant - respondent No.3 on 22.08.2008 in the presence of family members when the petitioners had

come to India from Italy. Due to certain differences the marriage could not be performed. Harnek Singh, father of complainant- respondent No.3 filed a complaint dated 29.11.2010 before the Senior Superintendent of Police, Ludhiana (respondent No.2) which was marked to Deputy Superintendent of Police Raikot for enquiry. Both the parties were called during the enquiry proceedings and their statements were recorded. In that complaint and in his statement Harnek Singh leveled no allegation of demand of dowry or rape of his daughter - respondent No.3. The matter was resolved in the presence of Panchayat. It was decided that both the parties were free to marry as per their choice. Accordingly, Manjeet Singh - petitioner No.1 got married to Amarjot Kaur of village Kakrala Kalan on 23.01.2011 and returned to Italy on 01.03.2011 and thereafter he never came to India. In order to harass him and his family members, complainant -respondent No.3 gave a complaint dated 24.01.2011 by changing her name to Manpreet Kaur from Amanpreet Kaur, which was assigned to Superintendent Police (Operation) for enquiry. In the said complaint for the first time she leveled allegation of rape against petitioner No.1- Manjeet Singh. After enquiry the Superintendent Police (Operation) recommended lodging of the FIR. It was then that FIR No.153 dated 01.10.2011 was registered at Police Station Raikot, District Ludhiana.

After lodging of the FIR, the matter was placed before learned Illaqa Magistrate who passed various orders and vide order dated 29.02.2012 the learned Magistrate ordered summoning of the petitioners through proclamation for 31.03.2012. The proclamation was effected on 07.03.2012 directing the petitioners to appear on 31.03.2012. Thereafter, vide order

dated 25.04.2012, due to non-appearance, the petitioners were declared proclaimed offenders by the learned Illaqa Magistrate.

3. Learned counsel for the parties have been heard and record perused.

4. Learned counsel for the petitioner argued that since engagement between Manjeet Singh - petitioner No.1 and the complainant-respondent did not lead to a marriage between them, she levelled a false allegation of rape and fraud against him. The earlier complaint given by her father was investigated by the police and it was found that no case of criminal nature was made out against the petitioners. Thereafter, she gave a new complaint leveling allegation of rape with an intention to extract money from the petitioners. Otherwise also, if at all the act of sexual intercourse had taken place between her and Manjeet Singh - petitioner No.1, it was with her consent and therefore it was not a case of rape either.

5. As regards the order dated 25.04.2012 vide which the petitioners were declared proclaimed offenders, learned counsel asserted that while notice through proclamation was served on 07.03.2012, the petitioners were required to appear on 31.03.2012 i.e. just after 24 days. They were not allowed the mandatory period of 30 days to appear before the Court and therefore the order being in contravention to the mandatory provisions of Section 82 (1) is liable to be set aside.

6. On the other hand learned counsel for the State argued that the First Information Report No. 153 dated 01.10.2011 contained serious allegations of rape and demand of dowry against the petitioners. The complaint was given by respondent No.3 on 24.01.2011. As mentioned in the report of

Superintendent Police (Operation) Ludhiana dated 30.05.2011, copy of which has been filed by the petitioners as Annexure P-5, during the inquiry into the allegations, Manjeet Singh did not appear. The other two petitioners were also subsequently summoned but they also did not appear and it was reported that they had gone abroad. After inquiry, there being sufficient material showing that the allegations were prima facie true, the First Information Report was registered.

7. Indeed, prima facie the First Information Report speaks of serious allegations against the petitioners. It is alleged that after engagement of petitioner No.1 - Manjeet Singh with respondent No.3, he developed physical relations with her and reaped her. Thereafter, he went away to Italy and when he and his family came back to India, he was requested to perform marriage but he and the other petitioners demanded dowry in the shape of cash. The earlier complaint dated 29.11.2010 to which the petitioners referred was given by Harnek Singh father of respondent No.3, therefore, omission of allegation of rape on respondent No.3 in the said complaint, had no bearing on the complaint given by her subsequently which formed the basis of FIR No. 153 dated 01.10.2011.

8 The gravity of the allegations levelled in the complaint, there appears to be no reason to disbelieve the complainant or quash the first information report at this stage.

9. As far as order dated 25.04.2012, declaring the petitioners as proclaimed offenders is concerned, it was there in the report of Superintendent Police (Operation) that notice was sent to petitioner No.1 – Manjeet Singh vide memo No. 114/A dated 24.01.2011. During the course

of arguments, learned counsel for the State submitted that the said memo which was served on him is available on file. Meaning thereby that petitioner No.1 had notice of criminal case registered on the basis of complaint given by respondent No.3, yet he chose not to appear when he was called by the police during inquiry proceedings and left for Italy on 01.03.2011.

Subsequently, when the presence of the petitioners could not be procured, the police placed the matter before learned area Magistrate who, vide order dated 29.02.2012, issued notice through proclamation for 31.03.2012. No doubt, the order of the proclamation was affected on 07.03.2012 for appearance of the petitioners on 31.03.2012 before learned area Magistrate, but the order declaring them proclaimed offenders was passed on 25.04.2012 i.e. much after expiry of 30 days period after effecting of the proclamation. As already observed above, even before leaving the country petitioner Manjeet Singh had notice of the complaint given by respondent No.3. In the backdrop of said facts, order is legal and does not warrant intervention.

Resultantly, the petition is dismissed

March 03, 2015
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(SNEH PRASHAR)
JUDGE