

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

CRM-M-12160-2014 (O&M)

Date of decision : 10.02.2015

Swindertar Singh Sidhu and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Baljit Mann, Advocate for the petitioners.

Mr. Mehardeep Singh, DAG, Punjab.

Mr. H.S. Grewal, Advocate,
for respondent Nos.2 and 3.

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of case FIR No.129 dated 15.12.2011, registered under Sections 498-A, 406, 420, 120-B of the Indian Penal Code (for short, 'the IPC'), at P.S. Sadar Kotkapura, Distt Faridkot, and all consequential proceedings arising therefrom.

It is contended that after three inquiries in favour of the petitioners, the police had presented a cancellation report. However, the same was sent for reinvestigation by the Court. Now, the police has presented the challan. He further submits that the complainant-wife is residing in Canada. After obtaining an ex parte divorce, she has

remarried. After the relations between the parties became strained, the false allegations of demand of dowry have been levelled with the intention to harass and humiliate the petitioners.

On the other hand, the learned counsel for respondent Nos.2 and 3 has vehemently opposed the present petition. The challan already stands presented against the accused.

I have heard the learned counsel for the parties and perused the case file.

In the present case, the complainant-wife and her parents are settled in Canada. Soon after the marriage in question which was solemnized on 27.01.2010, the complainant wife left for Canada and joined her parents. Thereafter, petitioner No.1-husband also went to Canada and joined his in-laws family. However, the relations between the parties got strained and representations/complaints dated 09.05.2011 and 19.05.2011, were submitted to the SSP Ludhiana (Rural), by the complainant's relatives. Upon inquiry, a detailed report was submitted by DSP Jagraon, dated 09.06.2011, stating therein that the allegations were not found to be true. Another complaint dated 16.06.2011, addressed to the SSP Faridkot was submitted. The matter was again got inquired into through DSP Kotkapura, who vide report dated 12.07.2011, declared the accused innocent. Accordingly, the complaint was ordered to be filed by the SSP Faridkot. Now, on the fourth complaint dated 12.10.2011, moved before the SSP Faridkot,

inquiry was conducted by Incharge, Women Cell, and the present FIR came to be registered. After the lodging of the FIR, petitioner No.2 moved representations before the SSP Faridkot regarding false implication of the accused. An inquiry was conducted by DSP(D) Faridkot, who vide report dated 21.03.2012, recommended cancellation of the FIR as no incriminating evidence was found against the accused. The said report was approved by the SSP Faridkot on 28.03.2012, and cancellation report was ordered to be prepared and filed before the Court. Said cancellation report was filed on 06.05.2013, i.e. after lapse of more than one year, only after the petitioners approached this Court by filing CRM-M-9079-2013, wherein, strictures were also passed against the erring police officials for delaying the submission of cancellation report. The cancellation report was rejected by the learned Judicial Magistrate 1st Class, Faridkot, and ordered reinvestigation. The matter was again inquired into by SHO, P.S. Sadar Kotkapura, who reversed the findings of the earlier inquiries. Now, the challan stands presented in the Court on 01.02.2014.

It is admitted case of the parties that the complainants are residing in Canada. Offence, if any, had been committed in Canada, whereas, the FIR was registered at Faridkot. There is no allegation in the FIR that any dowry was demanded at the time of the marriage which was solemnized in India. The complainant resided in the house of her in-laws only for 1 ½ months and there is no allegation in the FIR

with regard to this period.

Another aspect of the matter is that the complainant-wife has already obtained a decree of divorce dated 30.01.2014, from the competent Court at Canada. Lodging of FIR in India and getting the marriage dissolved at Canada, which was solemnized in India, suggest that the action on the part of the complainant is mala fide. In her written statement filed before this Court, she has admitted the fact that after getting the divorce, she has remarried. The wife started new dawn of her matrimonial life in Canada but continued her hostilities through revival of the old litigation in India. The over zealousness to pursue the complaint in India smacks mala fide. In ***Preeti Gupta and another Vs. State of Jharkhand and another, 2010(4) Recent Apex Judgments 612 (Supreme Court)***, it has been observed as under:-

“28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

29. XXX

30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same

time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. XXX

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the

complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.”

Keeping in view the totality of facts and circumstances of the present case, this Court is of the considered opinion that it is a fit case where this Court would exercise its discretionary jurisdiction to prevent the abuse of process of the Court.

Consequently, the present petition is allowed, FIR No.129 dated 15.12.2011, registered under Sections 498-A, 406, 420, 120-B IPC, at P.S. Sadar Kotkapura, Distt Faridkot, along with all consequential proceedings arising therefrom, are hereby quashed, qua the present petitioners.

10.02.2015
yakub/atulsethi

(JITENDRA CHAUHAN)
JUDGE