

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

**Crl. Misc. No. M-1996 of 2012
Date of decision: 20.01.2015**

Narinderjit Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.S. Dhillon, Advocate,
for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab.

Mr. P.S. Brar, Advocate,
for respondent Nos. 2 to 4.

RITU BAHRI, J.

This petition under Section 482 Cr.P.C is for quashing of order dated 19.04.2011 (Annexure P-2) passed by the Sessions Judge, Jalandhar, whereby he has set aside the order dated 18.08.2010 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Jalandhar, vide which accused-respondent Nos.2 to 4 were summoned to face trial for commission of offences under Sections 420 and 494 IPC.

Complainant-petitioner filed a complaint No.14/1/06 dated 21.02.2006 titled as 'Narinderjit Singh Vs. Balwinder Singh and others', under Sections 420, 494, 495 and 120-B IPC, alleging that the marriage of complainant was solemnized with Parminder Kaur-respondent No.4 on 16.07.2000 according to Sikh religious rites. Out of this wedlock, a female

child namely Prabhjot Kaur was born on 06.06.2001. Balwinder Singh and Paramjit Kaur (respondent Nos.2 and 3) are father-in-law and mother-in-law of the petitioner. It was further alleged that Parminder Kaur, wife of the petitioner was already married. However, this fact was not disclosed to the complainant-petitioner at the time of his marriage. He came to know about this fact when he received summons along with copy of petition under Section 11 of the Hindu Marriage Act from the Court of Additional District Judge, Faridkot. Thereafter, the complainant filed a complaint against the accused-respondents.

The trial Court, after appreciating preliminary evidence led by the complainant-petitioner summoned accused-respondent Nos. 2 to 4 to face trial under Sections 420 and 494 IPC vide order dated 18.08.2010 (Annexure P-1). However, the Sessions Judge, Jalandhar, vide order dated 19.04.2011 set aside the order dated 18.08.2010 and dismissed the complaint filed by the complainant on the ground that the marriage between Narinderjit Singh-complainant and Parminder Kaur-respondent No.4 had taken place at Faridkot and the Courts at Jalandhar has no jurisdiction to try this complaint. Under Section 182 Cr.P.C. the jurisdiction relating to the offences under Sections 494 and 495 IPC is with the Court(s), where the offence have been committed or the offender last resided with his or her spouse by the first marriage or the wife by the first marriage has taken up permanent residence after the commission of the offence. The marriage of the petitioner was solemnized with respondent No.4 at Faridkot. There is no evidence that respondent No.4 resided at Jalandhar after her marriage with the petitioner. She had resided at Faridkot and therefore, the Court at Jalandhar had no jurisdiction to entertain the complaint.

On a complaint made to the Magistrate under Section 202 Cr.P.C., the Magistrate is required to make an enquiry, as to if, an accused is residing beyond his jurisdiction for the purpose of deciding, whether or not, there was sufficient ground for proceeding with the complaint. In order to prove an offence under Section 494 IPC, it was necessary to prove essential ceremonies of the first marriage of Parminder Kaur with Simarjit Singh. Hence, the jurisdiction of the Court at Jalandhar was not made out and the complaint was dismissed.

Learned counsel for the petitioner has made reference to his complaint and argued that before this marriage, the petitioner was not informed that Parminder Kaur was earlier married to Simarjit Singh. Therefore, the essential ingredients of offence under Section 420 IPC were made out and this aspect has not been considered by the Revisional Court.

The petitioner is resident of Jalandhar and his marriage was solemnized at Faridkot. After solemnizing marriage, he cohabited with his wife at Jalandhar and a female child namely Prabhjot Kaur was born on 06.06.2001. Hence, the offence of cheating under Section 420 IPC against respondent No.4 that she had not informed the petitioner with regard to her earlier marriage, was made out at Jalandhar.

Arguments of learned counsel for the petitioner is accepted as the revisional Court has not examined the ingredients of the offence under Section 420 IPC against Parminder Kaur-respondent No.4. Even though the offence under Section 494 IPC was not made out, yet the Court at Jalandhar was required to examine, if the offence of cheating under Section 420 IPC was made out against respondent No.4 or not.

Resultantly, the impugned order dated 19.04.2011 (Annexure P-

2) is set aside and the matter is remanded back to the Sessions Judge, Jalandhar, to pass a fresh order after examining the provisions of Section 420 IPC.

Disposed of accordingly.

(RITU BAHRI)
JUDGE

20.01.2015
ajp