

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

CRM-M No.31739 of 2015

Date of Decision:-29.09.2015

Harbans Singh & Anr.

.....Petitioners.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Munish Gulati, Advocate for the Petitioners.

JASWANT SINGH, J (ORAL)

Harbans Singh and Sona Rani @ Sunita Rani have preferred the present petition seeking quashing of complaint no.516-1 of 30.03.2012 titled as Balwinder Kaur Vs. Harbans Singh & Ors (**P-1**) as well as the summoning order dated 20.01.2014 (**P-2**) passed by the learned Court below. Respondent no.2, had preferred this complaint for the offences punishable under Sections 406, 498-A, 494, 420 and 120-B of Indian Penal Code, where upon finding prima facie case against the petitioners, the summoning order was passed by the learned trial Court.

The allegations in the complaint made by respondent no.2 were regarding cruelty committed by her husband-petitioner no.1. According to the complainant, the petitioner no.1 has married with petitioner no.2 without getting any divorce from the complainant (respondent no.2). There were other allegations also regarding demand of dowry etc. In support of the

case, the complainant had examined five witnesses which include the granthi namely Balwinder Singh (CW-4) who had performed the second marriage of petitioner no.1 with petitioner no.2 at Gurudwara Sahib Basti Gulab Singh Wali.

The learned trial Court in its order dated 20.01.2014 has gone into the contents of the complaint as well as pre-summoning evidence in detail and has recorded its satisfaction regarding prima facie commission of offences punishable under Sections 406, 498-A, 494 IPC against the petitioners.

The petitioners have challenged these proceedings on the ground that the parties had dissolved their marriage by way of a panchayati compromise and, therefore, the complainant cannot maintain the complaint. The Panchayati compromise is appended as Annexure P-3, which reveals that the petitioner no.1 and the respondent no.2 agreed to separate but in view of this panchayati compromise/separation nothing has been given to the respondent no.2 and apparently the said compromise is one sided in favour of petitioner no.1 alone. The genuineness of this compromise is yet to be established.

Besides, the paragraph 6 of the compromise itself contains a recital that both the parties i.e. Petitioner no.1 and respondent no.2 are aware that divorce decree through court is essential but the parties don't want to go to the Court. Whereas in the complaint it is alleged by complainant (respondent no.2) that the Panchayati compromise was on the pretext to settle the matter through the Court, whereas no such settlement before the Court was arrived at. The marriage between petitioner no.1 and respondent no.2 has not been dissolved in accordance with law and,

therefore, the learned Court below has rightly summoned the petitioners to face trial for the offences as mentioned in the summoning order.

In view of the above, this Court does not find any ground to interfere under Section 482 Cr.PC for quashing both aforesaid complaint (P-1) as well as the summoning order dated 20.01.2014 (P-2) passed by the learned trial Court and as such the present petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

September 29, 2015
Vinay