

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-43542 of 2013

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Date of decision:23.1.2015

Dalip Singh Cheema

...Petitioner

v.

Inderjit Singh Cheema

...Respondent

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Kanwaljit Singh, Senior Advocate with Mr. B.B.S.
Randhawa, Advocate for the petitioner.

Mr. Onkar Singh Advocate for the respondent.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of complaint No.18/15.4.08 dated 27.3.2009 (Annexure-P.5), summoning order dated 31.3.2010 (Annexure-P.6) and the order dated 7.11.2013 (Annexure-P.9) passed by the learned Additional Sessions Judge, Fatehgarh Sahib declining to condone the delay in entertaining criminal revision petition.

Notice of motion has been issued in this case.

Mr. Onkar Singh, learned Advocate has put in appearance on behalf of respondent No.2 and contested this petition.

I have heard learned counsel for the petitioner and learned counsel appearing for respondent No.2 and have gone through the record.

From the record, I find that Inderjit Singh Cheema filed a complaint against Sandeep Cheema and Dalip Singh Cheema for the offences under Sections 420 and 34 IPC, Police Station Bassi Pathana. It is stated in the complaint that complainant Inderjit Singh Cheema originally belongs to Village Lohari Kalan, Police Station Bassi Pathana, Tehsil Bassi Pathana, District Fatehgarh Sahib and is now a Canadian citizen since the year 2001. Accused No.1-Sandeep Cheema is wife of the complainant, and accused No.2-Dalip Singh Cheema is father-in-law of the complainant. Earlier the complainant was married to Harmeet Kaur and later on, due to differences in temperaments, mutual divorce took place between the complainant and he had two children, namely, Manikaran Singh and Dilsher Singh from his first marriage. After divorce, the said children frequently used to visit the house of the complainant. However, they permanently resided with their mother. In the year 2001, after getting citizenship from Government of Canada, the complainant came to India and one of the friends of the complainant, namely, Gurjit Singh (now deceased) offered the complainant a marriage proposal with accused No.1. A meeting was convened and in that meeting it was clarified the factum of earlier marriage of the complainant etc. It is stated that thereafter the complainant met accused No.1 and disclosed the above said facts and position to accused No.1 and also further cleared that the children of first marriage will come to the house of the complainant even after their marriage. Accused No.1 assured him that she will treat his children as her own. Marriage of the complainant with accused No.1 took

place on 9.6.2001. Thereafter, the complainant get registered his marriage with Sandeep Cheema before the Registrar of Hindu Marriage, Bassi Pathana on 21.6.2001. Certified copy of the marriage certificate is attached. Accused No.1 and 2 also recorded their statements before the Registrar on 21.6.2001 regarding unmarried. On 7.7.2002, the complainant called accused No.1 to Canada and female child, namely, Sehajpreet Cheema was born to accused No.1. A matrimonial dispute arose then. The complainant came to India in February 2007 and he went to the family of the accused persons and disclosed wrong attitude of the accused persons towards his family members. The family members of accused No.1 and 2 did not listen to the complainant on the complaint and he went back to Canada in April 2007. After that he came to India and came to know that accused No.1 was a divorcee at the time of her marriage with the complainant. The complainant inquired the same from accused No.1, who failed to give reply satisfactorily in this regard. Then in order to find out the truth, the complainant came to India on 19.12.2007 and inquired the matter at length about her first marriage and finally obtained a copy of the judgment dated 14.3.2000 passed by District Judge, Ludhiana in a divorce petition and came to know that accused No.1 was earlier married to Jagrattan Singh Grewal. It is allegation that accused persons committed fraud by not disclosing the earlier marriage of accused/respondent No.1 to the complainant.

After hearing learned counsel for the parties and after going through the contents of the complaint, it is clear that the complainant was

a divorcee at the time of his marriage with accused No.1, there is also no dispute that the complainant has already two sons, who remained with their mother and visit the complainant also. There is no dispute regarding the fact that the marriage between the complainant and accused No.1 took place on 9.6.2001. As per the copy of the decree placed on record, accused No.1 was earlier married to Jagrattan Singh Grewal and divorce has already taken on 14.3.2000 i.e. much before the marriage of Sandeep Cheema with the complainant. From the record, it is also clear that a matrimonial dispute arose in the year 2007 i.e. after about six years of marriage. Now the allegation of the complainant is only that he was not informed regarding the earlier marriage of respondent No.1. There is one document i.e. marriage registration certificate, but the perusal of that document itself shows that this application was given by the complainant himself in which Sandeep Cheema has been shown as unmarried. Learned counsel for the petitioner states that this document has been got prepared by the complainant himself to fulfill the requirement to go to the foreign country etc. There is no other document on record to show that these facts have not been disclosed by the present petitioner to the complainant. It looks that this complaint has been filed to put pressure on Sandeep Cheema and Dalip Singh Cheema only. The mediator between the marriage of Inderjit Singh Cheema and Sandeep Cheema was friend of the complainant and it is not possible that he concealed the true facts from the complainant being his friend. Otherwise also, from the record, it is clear that this complaint is nothing, but a pressure tactics of the complainant

[5]

against his wife as well as father-in-law and this complaint has only been filed after a matrimonial dispute arose between them. It also looks improbable that after six years of the marriage, he could not know regarding this fact from anybody. Otherwise also, the complainant himself was a divorcee at that time and his age was shown as 38 years at the time of marriage, whereas Sandeep Cheema at that time was 29 years of age. Any prudent person will inquire before the marriage as to why the marriage has not taken place till this age. Whenever, the marriage took place, specially arrange marriage, everything has been inquired. So, from the record, I find that the present complaint filed by the complainant-respondent Inderjit Singh Cheema is nothing, but an abuse of the process of the law.

Therefore, finding merit in the present petition, the same is accepted. The complaint No.18/15.4.08 dated 27.3.2009 (Annexure-P.5), summoning order dated 31.3.2010 (Annexure-P.6) and the order dated 7.11.2013 and all subsequent proceedings arising out of the same are hereby quashed qua the petitioner.

January 23, 2015.

(Inderjit Singh)
Judge

hsp