

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i)

CRM No.M-11640 of 2012 (O&M)

Sita Rani Luthra

...Petitioner

VERSUS

State of U.T. Chandigarh and another

...Respondents

(ii)

CRM No.M-3590 of 2014 (O&M)

Satya Narain Luthra

...Petitioner

VERSUS

State of U.T. Chandigarh and another

...Respondents

Date of Decision: March 16, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajiv Kataria, Advocate
for the petitioners.

Mr.Sukant Gupta, Standing counsel
for U.T. Chandigarh.

Mr.A.P.S.Shergill, Advocate
for respondent No.2.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected cases as the matter in dispute is same in both the cases.

The above-mentioned petitions have been filed by petitioners for quashing of FIR No.390 dated 11.09.2009 under Sections 406 and 420 IPC (offence under Section 420 IPC deleted

during investigation) registered at Police Station Sector-39, Chandigarh along with all subsequent proceedings emanating therefrom.

Notice of motion was issued in both the cases. Learned Standing counsel for U.T. Chandigarh and learned counsel for respondent No.2 appeared and contested both the petitions.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

In the present case, though challan has been presented but charges have not been framed yet, as argued. The FIR in the present case has been got registered by Parnita Verma respondent No.2 under Sections 406 and 420 IPC against Satya Narain Luthra, husband, British Citizen, Hira Lal Luthra, father-in-law, Sita Rani Luthra, mother-in-law, Jatinder Luthra, brother-in-law, Preeti Luthra, wife of Jatinder Luthra and Neeta Sharma, sister-in-law all residents of Nairobi and Manjula Sahdev. As per the FIR, the complainant was married to Satya Narain Luthra on 23.10.2007. The marriage was performed as per Hindu Rituals in the presence of relatives and friends of both the parties at Radha Krishan Temple, Sector-40A, Chandigarh and the Ring Ceremony was performed at 'Pind Khushian Da' in Sector-35C, Chandigarh. It is further stated that an advertisement in the newspaper dated 29.09.2007 was published stating the accused Satya Narain Luthra as Software Engineering Degree holder from UK. Going on the advertisement, complainant's parents get her married with Satya Narain Luthra. Sufficient dowry

was given to the bridegroom and his relatives in shape of cash, gifts, gold and complainant's parents spent sufficient amount on the solemnization of various functions as per status and capacity. It is also in the FIR that complainant flew to Nairobi (Kenya) with husband Satya Narain Luthra, mother-in-law Sita Rani Luthra and sister-in-law Neeta Sharma. A small reception was arranged in Nairobi and the marriage was got registered at Nairobi. It is also stated by the complainant that on reaching Nairobi, her husband and his family initially displayed good behaviour and after some time, they started showing their true colour. There was absolute friction in the family. Petty quarrels on small counts used to happen as a matter of routine. A daughter was born on 28.07.2008 out of the wedlock and whole of the family took it on negatively and complainant's husband and the family continued with more cruelty, beating and torturing her. The complainant also came to know that her husband, although a citizen of UK but never struck to his place and on the other hand, stayed at Nairobi. It is also in the FIR that after the complainant came from the hospital after her delivery, her husband and mother-in-law had a never ending argument and because of their fight, she was made victim by way of blaming her for everything and was forced to leave the matrimonial house on 06.09.2008 and was asked to go to her father-in-law house, where he was living separately from his family. It is also in the FIR that complainant's mother-in-law asked her to remove the gold ornaments and leave the matrimonial home. A detailed FIR has been got registered by the complainant.

At the time of arguments, learned counsel for the petitioners argued that all the offences have been committed at Nairobi, which is out of the territorial jurisdiction of this Court and the FIR cannot be got registered at Chandigarh and is without jurisdiction. Learned counsel for the petitioners further argued that there is nothing in the FIR that respondent No.2-complainant asked for return of dowry articles.

On the other hand, learned counsel for respondent No.2 as well as learned State counsel argued that FIR can be registered at Chandigarh as the marriage took place at Chandigarh and dowry articles were entrusted at Chandigarh. It has also been argued that it is clear that dowry articles have been misappropriated and the complainant was turned out from the matrimonial home and even she was asked by mother-in-law to remove the gold ornaments.

After hearing learned counsel for the parties as well as learned State counsel and after going through the record, I find that first of all, as per FIR, dowry articles were given at the time of marriage and entrusted to Satya Narain Luthra and his family at Chandigarh where marriage took place. It is in the FIR that mother-in-law asked the complainant to remove the gold ornaments and the complainant was turned out of the matrimonial home, which shows that dowry articles meant for the complainant have been retained and misappropriated by the petitioners and in no way, it can be held that no offence is made out from the perusal of the FIR.

Furthermore, as the dowry articles were given at

Chandigarh, therefore, cause of action also has arisen at Chandigarh. As per Section 177 Cr.P.C., every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 181(4) Cr.P.C. provides that any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose jurisdiction the offence was committed or any part of the property which is subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

Keeping in view the above provisions, I find that the dowry articles were received at Chandigarh, therefore, FIR can be registered at Chandigarh.

In view of the above discussion, I find that the FIR in question is not liable to be quashed on the ground of territorial jurisdiction. As already discussed, after perusal of the FIR, in no way, it can be held that offence under Section 406 IPC etc. is not made out. In no way, it can be held that registration of FIR in question is abuse of process of law or amounts to miscarriage of justice. The disputed facts are to be decided by the trial Court on the basis of the evidence.

Therefore, at this stage, finding no merit in both the petitions, the same are dismissed.

However, nothing stated above will constitute my opinion on merits of the case.

March 16, 2016
Vgulati

(INDERJIT SINGH)
JUDGE