

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-22863 of 2013

Date of Decision: 22.8.2016

Preetwant Singh and others

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rohit Ahuja, Advocate
for the petitioners.

Mr. K.S.Aulakh, AAG, Punjab.

ANITA CHAUDHRY, J(ORAL)

This petition has been filed under Section 482 Cr.P.C. seeking quashing of the order dated 20.5.2013 passed by the Additional Sessions Judge, Kapurthala vide which the revision filed by the respondent was allowed and the prosecution was allowed to place on record FIR No. 122 dated 22.10.2011 (27.10.2011) registered at P.S. Dharamkot District Moga under Section 311 Cr.P.C.

The petitioners are facing trial in FIR No. 7 dated 1.3.2004 under Section 498-A, 406, 120-B IPC, registered at P.S. Dhilwan, District Kapurthala. The FIR was registered on a complaint made by Palwinder Kaur wife of Preetwant Singh. The allegations levelled by Palwinder Kaur were that Preetwant Singh had illegally performed second marriage with another lady and had a child from the alleged second wife and she had again conceived. During the pendency of the trial, the complainant learnt that

arm injury inflicted by Preetwant Singh and his father for which FIR No. 122 under Section 307 IPC and Section 27 of the Arms Act, 1959 had been registered at Police Station Dharamkot, District Moga. An application was moved by the complainant on 27.2.2012 under Section 311 Cr.P.C. for placing on record the FIR registered under Section 307 IPC at P.S. Dharamkot, District Moga. After seeking reply from the accused the trial Court dismissed the application on 24.8.2012 (Annexure P-4) on the ground that the FIR was not material for the just decision of the case as the incident was not related to the case pending before it.

A revision was preferred by the State which allowed the application on 20.5.2013.

Aggrieved with the order, the accused have filed this petition under Section 482 Cr.P.C. seeking quashing of the order passed by the Additional Sessions Judge, Kapurthala.

At the outset it may be said that there is no merit in the petition. The complainant had wanted to place on record a subsequent FIR registered against Preetwant Singh and his father allegedly by the second wife of Preetwant Singh. This fact had come to the notice of the complainant only later when the child was born. The present FIR was registered in 2004 while the second FIR against the petitioners in 2011.

The Revisional Court made the following observations while allowing the revision:-

“6. Perusal of the file of the Ld. Lower court shows that FIR against the present respondent has been lodged u/ss 498-A/406/120-B IPC. The factum of second marriage of the accused Preetwant Singh came to the notice of the complainant

during the pendency of this case. FIR No. 122 dated 28.10.2011 lodged at police station Dharamkot came to her notice and copy of that FIR is on the file which has been lodged by Davinder Kaur w/o Preetwant Singh i.e. present accused. In that very FIR, she alleged that after the marriage with Preet Singh a son namely Amiteshwar Singh was born but they started harassing her on account of dowry. In that very case, present accused alongwith his father fired gun shots and Sukhwinder Singh father of Davinder Kaur gave another application before the police which is also on the file that at the time of marriage of his daughter with accused Preetwant Singh, they did not know that he is already married with Palwinder Kaur and this fact came to their notice now and his statement has also been recorded by the police and statement of Davinder Kaur has also been recorded by the police. Though that FIR has no direct effect on the merits of the present case, but placing and proving on record that FIR in the present case will be relevant to show the conduct of the accused. Respondent got married with second lady during the subsistence of his first marriage with the present complainant and even one child was also born out of that wedlock and his second wife is pregnant by a second child. He also committed cruelty with his second wife and present FIR is also u/s 498-A IPC. So in these circumstances that FIR is relevant to prove the conduct of the accused. Therefore, the Ld. Lower court has failed to appreciate this fact on the file while dismissing the

application u/s 311 Cr.P.C. Therefore, I find merits in the contention raised by the Ld. Addl. PP for the State/revisionist.”

The submission on behalf of the revisionist that the incident in the FIR registered in 2011 had no relation with the first FIR and that it had no bearing to the case has to be rejected. The complainant wanted to prove the conduct of the accused on record and that fact had come to the notice of the complainant during trial. The fact is relevant for the purpose of showing his conduct.

The Co-ordinate Bench had stayed the operation of the order in July 2013. The case was adjourned for filing reply till December 2014. Thereafter the petitioners side has been seeking adjournments sometime written or oral or there have been no appearance on their behalf. Attempt clearly was to delay the trial. The conduct has to be deprecated.

The petition is dismissed with costs of Rs. 5,000/- to be deposited with High Court Legal Services Committee.

Parties are directed to appear before the trial Court on 31.8.2016.

**(ANITA CHAUDHRY)
JUDGE**

August 22, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No