

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-41788 of 2013

Date of decision : 02.09.2016

Sandeep Pal Verma

... Petitioner

versus

Vijay Kumari

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. A.S. Gill, Advocate
for the petitioner

Mr. Vaibhav Narang, Advocate
for the respondent

ANITA CHAUDHRY, J.(ORAL)

The petitioner has approached this Court for quashing of a criminal complaint captioned "Smt. Vijay Kumari vs. Sandeep Pal Verma and others" filed under Sections 406, 498-A, 506, 120-B/34 IPC. The petitioner is the husband who has been summoned in a complaint case filed by Vijay Kumari.

It is necessary to give the brief facts.

The petitioner was a divorcee and was staying in U.K. He came to India and got married to Chanda in 2007. After staying in India for 12 days the petitioner went back to U.K. The petitioner applied for spouse visa and his wife joined him in June 2007. Differences arose and the marriage was dissolved in 2010. The petitioner's parents had also moved to U.K. After the divorce was finalised a complaint was filed by Chanda's mother namely Vijay Kumari. Allegations of cruelty, harassment and demand of dowry were levelled. The petitioner and his parents were arrayed as accused. The parents who by then had arrived in India filed a petition bearing CRM No. M-30550 of 2012 and noting the facts and circumstances, the complaint and the summoning order qua them was

dismissed. An SLP was preferred by Vijay Kumari which was also dismissed on

31.01.2014. This petition was filed by the petitioner on his return to the country.

The short submission made on behalf of the petitioner was that had he beaten or maltreated his wife while he was in India for 12 days or had demanded any dowry, he would not have sponsored the spouse visa for his wife nor the wife would have joined or taken the risk of going abroad alone. It was urged that the petitioner's parents had come to U.K. in 2009 and they learnt about the marital discord and on their return they gave an application to the SSP seeking protection as they were apprehending threat. In those proceedings Vijay Kuari made a statement but she did not level allegations with regard to the maltreatment or demand of dowry or mis-appropriation and all the facts were concocted. It was urged that a complaint was given in August 2009 which was enquired into and the police did not find any truth and later the complaint was filed and the respondent approached the High Court for directions to the SSP and the petition was disposed of with a direction to the SSP to look into the application and take necessary action if any substance was found. It was urged that these proceedings are an abuse of the process of law and in view of the principles laid down in ***State of Haryana and others Vs. Ch. Bhajan Lal and others, AIR 1992 SC 604***, the complaint and the further proceedings qua the petitioner be also quashed.

The submissions on the other hand was that the allegations had been made against the husband and Chanda had also stepped into the witness box and it is a matter of trial. It was urged that there was a demand of car and cash and Chanda was beaten up and she was admitted in the hospital and the pleas raised in the petition can not be tried and it should be left to the trial Court to adjudicate. The counsel had also referred to Annexure R-1, the certificate issued by Chawla Nursing Home.

The certificate referred to by the respondent refers to admission of

Dimple wife of Sandeep in the hospital on 11.3.2007. The wife had been admitted

with a complaint of profuse bleeding (post coital) and surgery was done under Anaesthesia. The couple were married on 05.03.2007. The admission in the hospital was 6 days later. The husband moved back to U.K. after 12 days. He left after the discharge of his wife from the hospital. He completed the visa formalities and the wife was called for her interview and she left for U.K. on 06.06.2007. The wife had stayed in India for three months. She did not make any complaint to the police or to her parents. She got the permanent visa with the help of her husband. The trouble arose when a complaint was given by the parents who were returning to India. They apprehended threat to their life and that is why the complainant approached the police for the first time and her statement was taken. In that complaint as well she did not make any allegation of demand or torture. After the divorce proceedings were finalized she filed a complaint in 2010.

It is to be considered whether the proceedings can be allowed to go on? Whether continuation of the proceedings would be an abuse or misuse of process of law?

In my considered view the proceedings can not be allowed to go on. It is difficult to believe that the respondent's daughter was being harassed from the very beginning of marriage. The petitioner's wife did not make any complaint during her stay in India. She did not make any complaint to the local police even on her arrival in U.K. The complaint was made in August 2009 against the husband and eight of his relatives. The police had enquired into the complaint and did not find any substance. The respondent had approached the High Court and the matter was again enquired into by DSP Amritsar and the complaint was found to be without any merit. It is thereafter that Vijay Kumari filed a complaint. It is absolutely clear that the allegations had been levelled as differences had arisen between the couple and the marriage was dissolved. It is difficult to accept the statement of the respondent that the respondent's daughter was maltreated or there

was any demand or harassment. The mother would not have allowed her daughter to go to a foreign country. With respect to the medical certificate the Coordinate Bench had dealt with that aspect. It had noted that no history of physical assault was given to the Medical Officer.

In my considered opinion the complaint had been filed to take vengeance due to marital discord between the couple and considering the background and the legal principles laid down in *Bhajan Lal's case (supra)* it is necessary to quash the complaint and the proceedings arising therefrom against the petitioner.

The petition is allowed and the complaint and the proceedings arising therefrom are quashed.

September 02, 2016
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(ANITA CHAUDHRY)
JUDGE

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No