

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41947-2013

Date of decision: September 21, 2016.

Krishna Kumari

... **Petitioner**

v.

State of Punjab and another

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri J.S. Bedi, Senior Advocate with
Shri Harpret Singh Multani, Advocate for the petitioner.

Shri K.S. Sidhu, Assistant Advocate General, Punjab.

Shri S.S. Dinarpur, Advocate for respondent No.2.

A.B. Chaudhari, J. (Oral):

By way of the present petition, the petitioner prays for quashing of FIR No.150 dated 20.7.2011, registered under Sections 420, 177 IPC and Section 12 of the Passport Act, at Police Station New Baradari, Jalandhar along with all the consequential proceedings.

In support of the petition, learned senior counsel for the petitioner contended that the FIR is lodged by the person who is not at all concerned in the matter purely out of enmity with Ramesh Chander. The petitioner has no concern with the said person who lodged the FIR with the police. He then submitted that so far as Sections 177 and 420 IPC are concerned, are by and large against Ramesh Chander and not against the present petitioner and the FIR against the petitioner under Section 12 of the Passport Act, 1967 and the initiation of the prosecution is bad for want of

sanction as held in the case of Oseela Abdul Khaker v/s State of Kerala, 2013(1) RCR (CrI.) 360. He, therefore, submitted that the prosecution against the petitioner cannot be allowed to continue as the same is nothing but abuse of process of law and at the behest of the busy body. He therefore prayed for quashing of the FIR.

Per contra, learned Counsel for the respondents opposed the petition and prayed for its dismissal on the ground that the trial has already commenced and therefore the FIR cannot be quashed at this stage.

I have carefully gone through FIR. I have heard learned Counsel for the parties at length. There are two accused persons mentioned in column No.7 of the FIR; number 1 is Ramesh Chander while number 2 is the present petitioner. This is the petition only by the present petitioner Krishna Kumari. It will be useful to extract relevant portion from the FIR, which I do hereunder:-

“...1. That the applicant namely Lovleen s/o Sh. Madan Gopal, Sodal Road, (near Sodal Mandir), Jalandhar is a law abiding Citizen of India, from there liable sources the applicant has received concrete information regarding illegal activities committed by above said accused Ramesh Chander. 2. That the accused Ramesh Chander during his life time got married to Smt. Krishana Rani about 20 years back and has taken divorce from her before the year 1992. The said decree of Divorce is a paper transaction and in fact they never lived separate from each other till today. Meaning thereby the accused Ramesh Chander made mockery of the court and law and by misleading the court obtained a decree of Divorce. 3. That one person namely Subhash Chander s/o Sh. Chaman Lal was also Chaman Lal was also residing near by to Ramesh Chander at Noormahal. The name of wife of Subash Chander is Smt. Veena Kumari. The accused Ramesh Chander being a crook person somehow developed illicit relations with Smt. Veena Kumari when she was residing at Noormahal in his vicinity. 4. That the accused Ramesh Chander had shown that he took divorce from his wife Krishana Rani. He also induced Smt. Veena Kumari and under his undue pressure she took ex-parte divorce from

her husband namely Subash Chander. 5. That accused Ramesh Chander and Veena Kumari got married in 1993 by showing both of them divorcee. The Height of the illegal activities of Ramesh Chander is that he continuously kept on making illicit relations on one hand with Smt. Veena Kumari and on the other hand with Smt. Krishna Rani. The accused Ramesh Chander resided with Smt. Veena Kumari for so many years at the house purchased by her husband bearing address 6A, Lal Nagar, Gopal Mandir Wali Gali, near Parkash Nagar, Jalandhar. The people of locality raised objections then Ramesh Chander started residing with Smt. Krishna Rani at noormahal for some days and with Veena Kumari at Jalandhar for some other days and the same is still going on between them. 6. That the accused Ramesh Chander even after his divorce with Smt. Krishna Rani purchased property in her name at Noormahal and Ludhiana showing her as his wife which is false being divorced by him prior to year 1992. Even bank accounts, Lockers and other properties are still in the name of Smt. Krishna shown as his wife, more over the voter list also reflects his name as husband of Krishna.

Sir, I have gone through the facts of the case and contents of inquiry report of DSP (H) Rural-Jalandhar in this case as per the report of inquiry officer a prima facie case u/s 420, 177 IPC and 12 Passport Act, 1920 is made out within the jurisdiction of PS Nai Baradari Commissionrate Jalandhar.”

Upon perusal of the above extracts from the FIR, it is crystal clear that the informant Loveleen is not an aggrieved person at all but appears to have serious enmity with Ramesh Chander. He is not aggrieved of any particular alleged act of cheating or violation of Section 12 of the Passport Act. It clearly appears that he lodged the FIR out of enmity with Ramesh Chander. The allegation against the present petitioner Krishna Kumari is only about the passport obtained by her and thus offence under Section 12 of the Passport Act. Perusal of the entire FIR shows that there are no specific allegations much less any adverse allegation against the present petitioner Krishna Kumari. I am therefore inclined to hold that there

are no offences against the petitioner under Section 12 of the Passport Act in the absence of any allegations to that effect.

Then, so far as allegations under Section 12 of the Passport Act are concerned, admittedly no sanction was obtained for prosecution of the petitioner. Relying on the decision of the Kerala High Court, in accordance with Section 15 of the Passport Act, 1967, I think the prosecution against the petitioner without any sanction under Section 15 is wholly untenable. In the result, I make the following order:-

ORDER

- i) CRM-M-41947-2013 is allowed;
- ii) FIR in question, along with all consequential proceedings, is quashed qua the present petitioner Krishna Kumar only.

September 21, 2016.
kadyan

[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No