

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No. 17804 of 2013(O&M)

Date of decision: 3.4.2017

Joginder Singh and others

....Petitioners

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sandeep Sharma, Advocate for the petitioners.

Mr. Mikhail Kad, AAG, Punjab.

Mr. S.S. Bhinder, Advocate for respondent No.2.

REKHA MITTAL, J.

The present petition under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') has been filed by the accused of FIR No.69 dated 07.06.2012 under Section 498-A of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Mataur, SAS Nagar Mohali with a prayer for quashing of the aforesaid FIR and proceedings emanating therefrom being abuse and misuse of process of law.

Counsel for the petitioners has submitted that the petitioners are citizens of Canada. Marriage of petitioner No.3 with Manpreet Kaur, daughter of the complainant was solemnized on 16.01.2008. After marriage, petitioners went back to Canada in the month of February 2008 and thereafter Sugmad Singh, husband of Manpreet Kaur arranged papers for her Visa to Canada. Accordingly, Manpreet Kaur went to Canada in July 2008. On reaching Canada, Manpreet Kaur showed her true colours

and told her husband that she did not want to reside with him and had solemnized marriage only for the purpose of becoming resident of Canada. All the petitioners tried their best to settle the dispute but to no result. Finding no alternative, petitioner No.3 filed divorce petition in the Supreme Court of British Columbia on 15.04.2011. Manpreet Kaur received notice but did not file any reply/claim petition. The Supreme Court of British Columbia vide order dated 17.05.2012 dissolved marriage of petitioner No.3 and Manpreet Kaur. It is vehemently argued that father of Manpreet Kaur (complainant Kanwar Singh) lodged instant FIR under Section 498-A IPC at Police Station Mataur. It is further argued that as none of the petitioners is a citizen of India nor any part of the offence under Section 498-A IPC was committed at any place within India, the present criminal proceedings are barred under Sections 4 IPC and 188 Cr.P.C. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India **Fatima Bibi Ahmed Patel Vs. State of Gujarat and another, 2008(3) RCR (Criminal) 135.**

Counsel would urge that as the criminal proceedings launched by father of the alleged victim are nothing short of abuse and misuse of process of law, these are liable to be quashed to prevent miscarriage of justice. For this purpose, he has referred to judgment of this Court **Amandip Kaur and another Vs. State of Punjab and another along with connected cases, 2016(1) RCR (Criminal) 671.**

Counsel for the complainant, on the contrary, has strongly contested plea of the petitioners for quashing of criminal proceedings on the premise that petitioner No.3 was declared as a proclaimed offender, therefore, he cannot invoke jurisdiction of this Court under Section 482

Cr.P.C. Another submission made by counsel is that disputed questions of fact are not amenable to adjudication under Section 482 Cr.P.C. and the same are required to be decided by the trial Court on the basis of evidence to be adduced by the parties. In addition, it is argued that in the FIR, there is also reference to an occurrence dated 12.01.2011 and said occurrence took place at Mohali, therefore, the Indian Courts have the jurisdiction to decide culpability of the petitioners for committing offence under Section 498-A IPC.

Counsel representing the State has endorsed the contentions brought-forth by counsel for the complainant.

I have heard counsel for the parties and perused the paper-book.

At the outset, it is pertinent to mention that the petition qua petitioner No.3 Sugmad Singh Deo was ordered to be dismissed as withdrawn vide order dated 30.11.2015 passed by this Court. As such, contentions raised by counsel for the complainant to challenge maintainability of the petition on behalf of petitioner No.3 no longer subsists, thus liable to be rejected.

There is no dispute that marriage of petitioner No.3 with Manpreet Kaur, daughter of the complainant was performed on 16.01.2008. Few days after the marriage, petitioners went back to Canada in the month of February 2008. On the basis of papers sent by the petitioners, Manpreet Kaur went to Canada in July 2008. It appears that there was marital disharmony between the couple and for that reason, the husband filed a petition for divorce in the Supreme Court of British

Columbia on 15.04.2011 and marriage of the petitioner No.3 with Manpreet Kaur was dissolved vide order dated 17.05.2012 (Annexure P-4). The petitioners have also appended a copy of the certificate regarding dissolution of marriage (Annexure P-5).

The present proceedings have been lodged by father of Manpreet Kaur in June 2012 on the basis of an application submitted by the complainant. Perusal of the allegations raised in the FIR make it evident that all these allegations pertain to demand of money for purchasing a house in Canada by the petitioners and consequent harassment to Manpreet Kaur on account of her failure to satisfy the said demand. There is nothing on record to suggest that any incident of alleged harassment to Manpreet Kaur in connection with demand of money for purchase of house had taken place in India.

Section 4 IPC provides for extension of Code to extra-territorial offences, reads as follows:-

“4. Extension of Code to extra-territorial offences. - The provisions of this Code apply also to any offence committed by—

- (1) any citizen of India in any place without and beyond India;
- (2) any person on any ship or aircraft registered in India wherever it may be;
- (3) any person in any place without and beyond India committing offence targeting a computer resource located in India .

Explanation .—In this section –

- (a) the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Code;

(b) the expression “computer resource” shall have the meaning assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000.”

Counsel for the complainant has not disputed that the petitioners are citizens of Canada and the alleged occurrence with regard to harassment to Manpreet Kaur in connection with demand of money occurred during her stay in Canada. A conjoint reading of Section 4 IPC and 188 Cr.P.C. leaves no manner of doubt that petitioners No.1 and 2 cannot be tried for any offence committed outside India by an Indian Court. Judgment passed by Hon’ble the Supreme Court in **Fatima Bibi Ahmed Patel’s** case (supra) squarely covers the present controversy warranting exercise of extra-ordinary jurisdiction under Section 482 Cr.P.C.

To be fair to the complainant, in the FIR, there is reference to a meeting between accused No.2 and 3 namely Joginder Singh and Jasbir Kaur (parents in law of Manpreet Kaur) with the complainant and his family at Mohali but at that time Manpreet Kaur was not residing with her husband or his family as she was purportedly thrown out of the matrimonial home in Canada in March 2010. It appears that at the time of alleged meeting, neither Manpreet Kaur nor her husband were available in India much less being part of the meeting dated 12.01.2011. Further the averments with regard to meeting dated 12.01.2011 would not indicate if any harassment was caused to the girl on account of demand of Rs.10 lakhs, subsequent to March 2010 when she was allegedly sent away from the matrimonial home in Canada. In this view of the matter, the alleged meeting between petitioners No.1 and 2 and parents of the complainant at

Mohali is not sufficient to bestow territorial jurisdiction upon the Courts in India or for that matter the Court at Mohali.

For the foregoing reasons, the petition is allowed. FIR No.69 dated 07.06.2012 under Section 498-A IPC registered at Police Station Mataur, SAS Nagar Mohali and proceedings emanating therefrom are ordered to be quashed qua petitioners No.1 and 2, leaving the parties to bear their own costs.

APRIL 3, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no