

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

-.-

Crl. Misc. M 23881 of 2015
Date of decision: 15.05.2017

Dimple

..... Petitioner

Versus

State of Haryana and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Inderjit Sharma, Advocate
for the petitioner

Ms. Dimple Jain, AAG, Haryana

Mr. Shokeen Singh Verma, Advocate
for respondent No. 2

-.-

Rekha Mittal, J.

By invoking Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.'), the petitioner prays for quashing of FIR No. 67 dated 12.02.2014 for offence punishable under Sections 498-A, 494, 506 and 406 of the Indian Penal Code (in short, 'IPC') registered with Police Station Sadar Rohtak and proceedings emanating therefrom.

Counsel for the petitioner has submitted that the petitioner has been sought to be indicted in the crime by raising allegations that Neeraj, husband of the complainant has performed second marriage with the petitioner during subsistence of the earlier marriage of Neeraj with the complainant, therefore, the petitioner has committed offence punishable under Section 494 IPC. It is argued with vehemence that neither in the FIR nor during the course of investigation any materials have been collected

with regard to the date, month, year of second marriage of the petitioner with Neeraj, venue of the marriage, persons present at the time of marriage much less ceremonies of the marriage in order to prima facie make out a case under Section 494 IPC. According to counsel, criminal proceedings initiated against the petitioner are nothing short of abuse and misuse of process of law and liable to be quashed.

Counsel for the complainant, on the contrary, would submit that the petitioner seeks to raise disputed questions of fact, not amenable to adjudication under Section 482 Cr.P.C.. It is further argued that as charge under Section 494 IPC has already been framed against the petitioner, it should be left to be decided by the trial Court on the basis of evidence to be adduced by the parties if the petitioner is guilty of the charged offence.

I have heard counsel for the parties and perused the paper book with their able assistance.

On a query raised by the Court, counsel for the State of Haryana would inform that during course of investigation, no such materials have been collected/produced with regard to date, month, year of alleged second marriage of the petitioner with the accused Neeraj; place of second marriage and persons in whose presence the second marriage was performed or ceremonies conducted at the time of marriage. Counsel for the complainant is not in a position to say something to counter the information imparted by counsel for the State. He is not in a position to advance any meaningful arguments that a prima facie case for committing offence punishable under Section 494 IPC is made out against the petitioner either on the basis of FIR or the report submitted under Section 173 Cr.P.C..

In view of the above, I find merit in contention of the petitioner

that criminal proceedings against the petitioner are liable to be quashed in order to prevent miscarriage of justice when the case is examined in the light of principles culled out by Hon'ble the Supreme Court of India in the landmark judgment *State of Haryana and Ors. v. Bhajan Lal and Ors.* **1992 Supp(1) S.C.C. 335.**

For the foregoing reasons, the instant petition is allowed and impugned FIR and proceedings emanating therefrom are ordered to be quashed qua the petitioner. However, nothing stated here-in-before shall cause prejudice to the complainant in respect of proceedings against other accused. No order as to costs.

(Rekha Mittal)
Judge

15.05.2017
mohan bimbira

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No