

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

Crl. Misc. M-29411 of 2017 (O&M)
Date of Decision: November 10, 2017

Manpreet Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manpreet Singh, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 20.07.2017 passed by Sub Divisional Magistrate Jagraon whereby, the application for release of passport of petitioner was dismissed.

In brief, the facts of the case are that brother of the petitioner namely Gagandeep Singh Brar got married to daughter of respondent No.4 namely Kuldeep Kaur on 20.02.2005 and both went to Canada, where out of this wedlock a girl child namely Harkirat Kaur was born on 21.03.2006. Thereafter, relation between them became strained and an effort was made to save their matrimonial life, but all in vain. Thereafter, respondent No.4- Gurmail Singh, father of Kuldeep Kaur moved an application before SSP,

Jagraon, with a frivolous allegation for demand of dowry in Canada and harassment to Kuldeep Kaur and allegations were also made against the present petitioner and whole of his family for instigating Gagandeep Singh Brar for the demand of dowry. On the basis of said application, an FIR No.182 dated 03.08.2010, under Sections 420, 498-A, 406 of Indian Penal Code came to be registered at Police Station Sadar Jagraon. However, during investigation, all the allegations of respondent No.4 were found to be false and it came out that brother of the petitioner was being harassed in Canada and also thrown out of house by daughter of respondent No.4. The cancellation report was filed and thereafter, the FIR was turned into a complaint case, in which the petitioner has not been summoned. On 18.09.2009 a divorce petition for divorce was filed in the court of Canada and the same was granted by Judicial Court of Alberta on 10.06.2011. After the dissolution of marriage, both Gagandeep Singh Brar (brother of the petitioner) and Kuldeep Kaur (daughter of complainant-respondent No.4) have re-married in Canada and they are living their life. It is stated that the petitioner moved an application before learned SDJM, Jagraon for release of the passport, but the same came to be dismissed on 20.07.2017. Being aggrieved against the said order, the instant petition has been filed.

Learned counsel for the petitioner argues that the FIR, in the which the passport was surrendered by the petitioner, has already been cancelled by the police and the same was accepted by SDJM, Jagraon and the complaint filed by complainant-respondent No.4 was ordered to be treated as a private complaint. It is contended that the dispute was between

husband and wife i.e. the petitioner's brother and his wife, who have already divorced each other and also re-married. It is also argued that both the brother of petitioner and daughter of respondent No.4 after re-marriage having their kinds and living happy life, but the petitioner is still facing harassment under the said FIR and not able to lead a normal life. It is also contended that petitioner is ready to give surety/security for releasing of his passport.

Per contra, learned counsel appearing on behalf of respondent-State opposes the present petition, while submitting that if the passport of the petitioner is released, then it would be difficult to procure his presence at a later stage.

I have heard learned counsel for the parties and perused the record of the case.

It is not in dispute that real controversy was between petitioner's brother Gagandeep Singh Brar and daughter of complainant/respondent No.2 Kuldeep Kaur, who were married on 20.02.2005 and went to Canada after their marriage. An FIR No.182 dated 03.08.2010 came to be registered under Sections 420, 498-A, 406 of Indian Penal Code at the instance of complainant/respondent No.4, father of Kuldeep Kaur, in which after due investigation, a cancellation report came to be filed. The said cancellation report was accepted by SDJM, Jagraon and the complaint of complainant/respondent No.4 was ordered to be treated as a private complaint. The said complaint is still at the stage of recording preliminary evidence and the petitioner herein has yet not been summoned

therein. Further, both Gagandeep Singh Brar and Kuldeep Kaur have since been granted divorce by the court at Canada on 10.06.2011 and after dissolution of marriage, they have now re-married in Canada and living their life happily with kids there.

Under Article 21 of the Constitution, no person can be deprived of his right to travel except according to procedure established by law. It is not disputed that no law was made by the State regulating or depriving persons of such a right. A similar view is reiterated in the decision rendered by 7-Judge Bench of this Court in **Maneka Gandhi Vs. Union of India and another (1978) 1 SCC 248** . Under these circumstances, this court is of the considered view that no purpose would be served in retaining the passport of the petitioner.

In view of the above, the petition in hand is allowed and the impugned order 20.07.2017 is hereby set aside. The passport of the petitioner is ordered to be released to him on his furnishing security/surety bond in the sum of Rs.1,00,000/- before the concerned Sub Judicial Magistrate at Jagraon, with an undertaking that as and when presence of the petitioner is required by the court, he shall make himself available before the court.

The petition stands allowed accordingly.

November 10, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No