

CRM -M-42263 of 2015 (O&M)

In the High Court of Punjab and Haryana at Chandigarh

CRM -M-42263 of 2015(O&M)

Date of Decision: 17.5.2017

Gurveer Kaur and another

---Petitioners

versus

Avtar Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajiv Sharma, Advocate
for the petitioner**

**Mr. Jatinder Pal Singh, Advocate
for the respondent**

Rekha Mittal, J.

By invoking Section 482 of the Code of Criminal Procedure (in short "Cr.P.C."), the petitioners pray for quashing of complaint case No. 218/1 of 15.11.2013 under Section 420, 498-A and 406 of the Indian Penal Code (in short "IPC"), order dated 15.7.2014 (Annexure P-2) passed by the Chief Judicial Magistrate, Ferozepur and dated 19.10.2015 (Annexure P-1) by the Additional Sessions Judge, Ferozepur whereby the petitioners have been summoned for facing trial under Sections 406, 498-A IPC by the trial court and summoning order passed by the trial court has been affirmed in revision by the Additional Sessions Judge, Ferozepur.

Counsel for the petitioners has submitted that the petitioners are the parents-in-law of Ramneet Kaur married to Karanveer Singh on

29.2.2008. In the year 2009, Karanveer Singh and Ramneet Kaur went to Australia. As per allegations made in the complaint, behaviour of the accused remained cordial with daughter of the complainant/respondent till 11.7.2011. Petitioner No. 1 went to Australia in the year 2013 to meet her grand son born on 5.4.2012. It is argued that there is no allegation in the complaint that daughter of the complainant was caused any harassment much less treated with cruelty either in connection of demand of dowry or otherwise during her stay in India. Further argued that as per stand of the complainant, relations between the alleged victim and the accused remained cordial till 11.7.2011 when admittedly daughter of the complainant and son of the petitioners left India in the year 2009 and they remained residing in Australia subsequent thereto. It is argued with vehemence that even if allegations raised in the complaint are taken on its face value, no prima facie case for committing offence punishable under Section 498-A IPC is made out, therefore, order summoning the petitioners to face trial for the said offence, affirmed in revision, is liable to be set aside.

With regard to offence under Section 406 IPC, counsel has submitted that the Court at Ferozepur has no jurisdiction to try the petitioners for the said offence. To substantiate his contention, he has invited attention of the Court towards allegations raised in para 9 of the complaint (Annexure P-4) pertaining to gold ornaments of Ramneet Kaur having been put into bank locker at Sri Ganganagar by Kulwant Singh father-in-law.

Counsel for the respondent/complainant while refuting contentions of counsel for the petitioners would argue that the complainant has raised allegations with regard to demand made by the petitioners,

detailed in paras 5 to 8 of the complaint. It is argued that raising of demand of dowry itself would amount to causing harassment in connection thereof, therefore, a prima facie case for commission of offence punishable under Section 498-A IPC is made out against the petitioners and they have been rightly summoned to face trial for the said offence.

With regard to territorial jurisdiction of the court qua offence under Section 406 IPC, counsel would urge that marriage of Ramneet Kaur with Karanveer Singh was performed at Ferozepur and all articles of jewellery comprising stridhan of the victim, detailed in para 4 of the complaint were entrusted to the accused at Ferozepur, therefore, a part of cause of action constituting offence under Section 406 IPC accrued within the local limits of the Court at Ferozepur, thus, court at Ferozepur has rightly taken cognizance of the said offence.

I have heard counsel for the parties, perused the paper book particularly the various annexures appended with the petition.

The present complaint was filed by father of Ramneet Kaur married to Karanveer Singh, son of the petitioners. Indisputably, Karanveer Singh and Ramneet Kaur went to Australia in the year 2009 and even at present, they are residing in Australia. The complainant in para 10 of the complaint has alleged that after going abroad, behaviour of accused remained well. On 11.7.2011, complainant's daughter and accused Karanveer Singh got permanent residence at Australia, From 21.6.2009 till September 2011, behaviour of all the accused remained well. After getting permanent residence in Australia, main accused Karanveer Singh and his mother who had gone to Australia those days, jointly gave beatings to daughter of the complainant by saying that getting married with her was a

compulsion for them because it was she only who could clear IELTS and Karanveer Singh was adamant to settle in Australia.

Section 498-A IPC deals with husband or relative of husband of a woman subjecting her to cruelty. A relevant extract therefrom reads as follows:-

“Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—

[\(a\)](#) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

[\(b\)](#) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

A bare reading of the allegations raised in the complaint would make it evident that there is no allegation against the petitioners that they caused harassment or committed cruelty upon Ramneet Kaur during her stay in India till she left for Australia in June 2009, either in connection with demand of dowry or with a view to force her or any person related to her to meet any unlawful demand for any property or valuable security. Similarly, there is no allegation that the petitioners committed any wilful conduct of such a nature as is likely to drive a woman to commit suicide or to cause a great injury or danger to life, limb or health. In this view of the matter, I

find merit in contention of the petitioners, that no prima facie case for committing offence punishable under Section 498-A IPC is made out against the petitioners, triable in India.

This brings the Court to issue of territorial jurisdiction of the Court at Ferozepur to try the offence under Section 406 IPC. Admittedly, marriage of Ramneet Kaur with Karanveer Singh was performed at Ferozepur and the alleged jewellery constituting stridhan of Ramneet Kaur was entrusted to the petitioners at Ferozepur. To address the contention raised by counsel for the petitioners in this regard, it is pertinent to extract the allegations raised in para 9 of the complainant, reads thus:-

“That at the time when both of them were about to fly, the accused no. 3 Kulwant Singh took all the gold ornaments of Ramneet Kaur very cunningly and put into its own bank locker at Sri Ganganagar. These gold ornaments included one complete gold set weighing 55/500 grams, two bangles weighing 20.100 grams and one gold ring weighing 3 grams, except these there were 6 gold bangles weighing 60.600 grams which complainant has given to Ramneet Kaur at the time of his retirement and set of two gold tops weighing 20/100 grams and one ring weighing 10.200 grams, which was also given by Ramneet's brother Amandeep Singh, when Ramneet Kaur gave birth to male child.”

Counsel for the petitioners has tried to interpret para 9 in a manner that ornaments of Ramneet Kaur which were allegedly entrusted to the petitioners at the time of marriage were taken from Ramneet Kaur for putting into bank locker at Sri Ganganagar, therefore, entrustment as well as

misappropriation is alleged to have happened at Sri Ganganagar, ousting jurisdiction of the Court at Ferozepur. On a conjoint reading of the averments made in para 9 of the complaint, statements of Ramneet Kaur CW-1, Avtar Singh complainant CW-2 examined during preliminary enquiry, it is difficult to conclude that the petitioners had handed over gold ornaments constituting stridhan of Ramneet Kaur to her earlier but when Ramneet Kaur and Karanveer Singh were about to fly, the same were taken back at Sri Ganganagar and put into a locker. That being so, plea of the petitioners that the Court at Ferozepur lacks territorial jurisdiction to try the offence under Section 406 IPC is misconceived and merits rejection.

In view of what has been discussed hereinbefore, the petition is partly allowed. Orders dated 15.7.2014 and 19.10.2015 summoning the petitioners for facing trial under Section 498-A IPC are set aside. However, nothing stated hereinbefore shall be construed as an expression of opinion on merits of the controversy by the trial court.

(Rekha Mittal)
Judge

17.5.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No