

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

CRM-M No. 5784 of 2015(O&M)

Date of decision: 03.04.2017

Gurpreet Passi

....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Navkiran Singh, Advocate for the petitioner.

Mr. Ankur Jain, AAG, Punjab.

Mr. Vikramjeet Singh, Advocate for respondent No.2.

REKHA MITTAL, J.

By invoking Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.'), the petitioner prays for quashing of FIR No.123 dated 18.11.2010 under Sections 498-A, 406 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Bholath, District Kapurthala and proceedings emanating therefrom including order dated 21.10.2013 (Annexure P-9) whereby petitioner has been declared as a proclaimed person/offender.

Counsel for the petitioner has submitted that marriage of the petitioner with Narinder Kaur Multani complainant/respondent No.2 was performed on 25.10.2009. Respondent No.2 lived with the petitioner for barely 35 days and finally left for Canada on 30.11.2009. Respondent No.2 completed formalities for immigration of the petitioner to Canada.

The petitioner reached Canada on 11.07.2010, after about 8 months of

marriage. He started residing with his wife and looking for a job or to do further studies in order to qualify as a Veterinary Doctor in Canada. On 24.08.2010, the petitioner and respondent No.2 had a verbal fight and the petitioner was thrown out of the matrimonial home by respondent No.2. Respondent No.2 made a false report of domestic violence (Annexure P-1) with the police but in the said complaint, no allegations with regard to harassment or cruelty in connection with demand of dowry were raised. The petitioner came back to India and respondent No.2 with a vengeance got registered the instant FIR indicting the petitioner and his close relatives by cooking up a cock and bull story.

It is further argued that parents of the petitioner filed a petition under Section 482 Cr.P.C. for quashing of the FIR and proceedings emanating therefrom and the petition CRM-M No.8505 of 2011 was allowed by this Court vide order dated 02.12.2014 (Annexure P-7). It is vehemently argued that the present case is squarely covered by judgment of Hon'ble the Supreme Court of India **State of Haryana Vs. Bhajan Lal, AIR 1992 SC 604** wherein it has been held that if the criminal proceeding is manifestly attended with mala fide and/or the proceeding is maliciously instituted with a ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge, extraordinary power under Article 226 of the Constitution or inherent power under Section 482 Cr.P.C. can be exercised by the High Court either to prevent abuse of process of any Court or otherwise to secure the ends of justice.

Counsel representing State of Punjab assisted by counsel for the complainant, on the contrary, has urged that the petitioner is not

entitled to indulgence of this Court in exercise of extraordinary power under Section 482 Cr.P.C. in view of the fact that he was declared as a proclaimed offender and the order dated 21.10.2013 (Annexure P-9) has not been set aside till date. Further argued that on 24.02.2015, notice of motion was issued and the petitioner was directed to surrender before the trial Court within a period of one month from the date of receipt of certified copy of the order and he was allowed interim bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court. The petitioner surrendered before the trial Court on 23.03.2015 but later he absented from the proceedings and rather left the country without permission of the Court. It is vehemently argued that the petitioner has scant regard for the orders passed by the Court who even could dare to leave the country without informing this Court or the trial Court much less seeking permission in this regard.

Counsel for the petitioner, in reply, would state that as the matter could not be heard despite application for pre-ponement filed at one point of time, the petitioner was rendered helpless and left for Canada. Another submission made by counsel is that absence of the petitioner from India should not be allowed to stand in his way to seek quashing of the criminal proceedings as he has a very good case on merits.

I have heard counsel for the parties and perused the records.

Concededly, the petitioner was declared as a proclaimed offender vide order dated 21.10.2013 (Annexure P-9), sought to be quashed in addition to quashing of the FIR and subsequent proceedings. The petitioner very well knew about registration of the FIR as his parents

were also indicted in the crime and they filed the petition **Barinder Kumar Passi and another Vs. State of Punjab** CRM-M No.8505 of 2011 which was eventually decided by this Court in their favour vide judgment dated 02.12.2014. At the time of notice of motion issued vide order dated 24.02.2015, it was submitted before this Court that the petitioner is ready to surrender before the trial Court. This Court allowed interim protection to the petitioner with a direction to surrender before the trial Court within a period of one month from the date of receipt of certified copy of the order dated 24.02.2015. The petitioner surrendered before the trial Court on 23.03.2015. Undenyingly, the trial Court adjourned the case to 09.04.2015 subsequent to the petitioner's putting in appearance on 23.03.2015 and his release on bail in compliance of order dated 24.02.2015. On 09.04.2015, an application seeking exemption from personal appearance of the petitioner was filed and the same was allowed. On the adjourned date i.e. 28.04.2015, again an application for exemption from personal appearance was filed and the same was allowed. On 18.05.2015, the trial Court recorded an order that the accused has absented and he be served through non-bailable warrants. A notice to his surety was also ordered to be issued for 08.06.2015. Repeated warrants issued by the Court did not yield any result and the Court ordered for attachment of property of the surety. As has been informed by counsel for the State, proceedings for declaring the petitioner as a proclaimed offender are pending in the Court. It is not clear as to when the petitioner left India subsequent to his first appearance in the Court on 23.03.2015. However, as the petitioner's personal appearance was sought to be exempted on the adjourned date i.e. 09.04.2015 it can be safely inferred that the petitioner left India immediately after his first

appearance on 23.03.2015 in compliance with order allowing interim bail by this Court. Taking into consideration conduct of the petitioner who was earlier declared as a proclaimed offender and later failed to attend to the proceedings before the trial Court after getting interim protection from this Court, the petitioner has disintitiled himself to be heard on merits of the case much less to seek quashing of criminal proceedings in exercise of extraordinary and discretionary jurisdiction under Section 482 Cr.P.C.

For the foregoing reasons, the petition fails and is accordingly dismissed.

APRIL 3, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

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