

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

CRM No.M-9858 of 2015 (O&M)
Date of Decision: February 17, 2017

Surat Singh

...Petitioner

VERSUS

Sandip Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Paramjit Batta, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 31.01.2014 passed by learned ACJM, Hoshiarpur, vide which the complaint filed by the petitioner against the respondents was dismissed and also the judgment dated 21.11.2014 passed by learned Addl. Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur, vide which the revision filed by the petitioner was also dismissed.

From the record, I find that petitioner-complainant filed a complaint against Sandip Singh and Asha Rani under sections 193, 195, 465, 466, 468, 469, 471, 500 and 501 IPC. The brief facts of the case as noted in the order passed by learned ACJM, Hoshiarpur, are as under:-

“2. In brief, the facts of the present complaint are that the complainant is the real brother of Asha Rani-accused No.2, who was married with Shiv Kumar son of Ram Narian, resident of Nangal Dam, P.O. Nangal, District Ropar in accordance with Sikh Rites on 02.06.2009 and was performed

at Gurudwara Singh Sabha Keharwali, Ward No. 8, Dasuya, Distt. Hoshiarpur and a marriage certificate dated 30.09.2010 was issued by the Gurudwara authorities under the signature of Bikram Jit Singh (President/Vice President). It has been submitted that the marriage of Asha Rani accused and Shiv Kumar was not dissolved by a decree of divorce. It has been further averred that both the accused Sandip Singh and Asha Rani belong to one and the same village Mirpur, Tehsil Dasuya, Distt. Hoshiarpur. Knowing fully well that Asha Rani accused was married with Shiv Kumar, Sandip Singh accused abducted Asha Rani and they prepared false, forged and fabricated marriage certificate dated 22.09.2009 in which they claimed themselves to have solemnized marriage on 22.09.2009 in Shri Mahakali Mandir Charitable Trust (Regd.) Industrial Area, Phase-2 (Power House), Chandigarh 160002. The said marriage certificate is false, forged and fabricated and the said marriage between Sandip Singh and Asha Rani is void since Asha Rani was already married with Shiv Kumar on 02.06.2009. It has been further averred that by concealing the true and real facts regarding their marriage, accused Asha Rani and Shiv Kumar made absolutely false complaint dated 22.09.2009 to the Sr. Superintendent of Police, Hoshiarpur, copy of which was sent to SHO P.S. Dasuya. In the said complaint/application it was wrongly and falsely mentioned that she has solemnized marriage with Sandip Singh on 22.09.2009 according to Hindu rites. The said false complaint with false averments was moved against the complainant Surat Singh and his other close relatives, namely Ram Singh son of Mela Ram, Sat Pal son of Mela Ram, Lakhvir Singh son of Mela Ram, Jatinder Singh son of Ram Singh all residents of village Mirpur Tehsil Dasuya, Distt. Hoshiarpur, Balwinder Kaur wife of Binder Singh resident of village Manda, Tehsil and District Jalandhar, Dharmanjit Kaur wife of Ajit Singh resident of village Bajwa Tehsil Dasuya Distt. Hoshiarpur. The said complaint/application was moved by the accused Asha Rani with the intent to defame and lower down the reputation of the complainant and his relatives amongst the general public. It has been further averred that, when, the said matter came to the notice of the villagers and persons of surrounding villages, the complainant and his relatives felt great humiliation. The matter was also looked into and enquired by the police and this fact was brought to the notice of the police that Asha Rani and Sandip Singh prepared false, forged and fabricated marriage certificate by claiming themselves to be married on 22.09.2009 without dissolving marriage that took place between Asha Rani and Shiv Kumar. It has been further averred that due to said complaint dated 22.09.2009 moved to the S.S.P, Hoshiarpur with a copy of SHO, P.S Dasuya, the complainant and his relatives were called as a result of which the image of the complainant and his relatives has been tarnished and the people of his village and of the surrounding

villages started taunting that Asha Rani was married with Shiv Kumar, but she has been taken away by Sandip Singh accused. As such the complainant and his relatives felt great humiliation amongst the general public. It has been further submitted that subsequently the accused also misled the Hon'ble Punjab & Haryana High Court to get protection by relying upon the false and fabricated marriage certificate dated 22.09.2009. They had also concealed the marriage of Asha Rani with Shiv Kumar and the said false marriage certificate dated 22.09.2009 was made. It has been further averred that on 25.09.2009, Hon'ble Mr. Justice Rajan Gupta, Judge, Punjab & Haryana High Court without expressing any opinion regarding the legitimacy of the marriage of Asha Rani with Sandip Singh, the petition filed by them was disposed of and it was directed that respondent No. 2 i.e. S.S.P, Hoshiarpur may look into the representation preferred by the petitioner and take appropriate decision in the facts and circumstances of the case. It has been further averred that despite this fact that the facts mentioned in complaint dated 22.09.2009 moved to the S.S.P, Hoshiarpur are false, forged and fabricated and the marriage certificate dated 22.09.2009 is also false, forged and fabricated, the police should have registered a case under the above said Sections against Asha Rani and Sandip Singh accused. But, it is very strange that so far the police has not taken any action against the accused and both the accused are living in the same village and law has become mockery for the inhabitants of the village whereas the complainant and his relatives have felt great humiliation on the basis of false and forged marriage certificate dated 22.09.2009 and the application dated 22.09.2009 moved to the S.S.P Hoshiarpur. It has been further averred that the accused have committed unlawful acts by moving false complaint dated 22.09.2009 to the S.S.P, Hoshiarpur with false averments on the basis of false marriage certificate dated 22.09.2009 within the territorial jurisdiction of this Hon'ble Court in which the complainant and his relatives were called. Hence this complaint."

Learned ACJM, Hoshiarpur, vide impugned order dated 31.01.2014 dismissed the complaint and did not summon the accused. A revision was filed by the petitioner and learned Addl. Sessions Judge, Hoshiarpur dismissed the same vide judgment dated 21.11.2014.

Aggrieved from the above said order and judgment, present petition has been filed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Surat Singh is brother of Asha Rani, who has filed the complaint qua second marriage of Asha Rani with Sandip Singh but the complaint is not filed under Section 494 IPC nor complainant can file the same. It can only be filed by one of the aggrieved spouses or on his/her behalf. Rather, Surat Singh has filed the complaint by showing Asha Rani and Sandip Singh as accused. Furthermore, main allegations under Sections 465 and 466 IPC etc. are that Sandip Singh abducted Asha Rani and prepared false and forged marriage certificate. There is no evidence on record that Sandip Singh abducted Asha Rani. There is also no preliminary evidence on record to show that marriage certificate has been forged. The allegations against the accused are that they have conducted the second marriage and obtained marriage certificate but no *granthi* has been produced to prove both these marriages.

Learned ACJM, Hoshiarpur, has correctly passed the order after discussing the evidence. At the summoning stage, the accused cannot be summoned in a routine manner. Rather, the trial Court is to apply its mind while summoning the accused on the basis of preliminary evidence. Shiv Kumar, earlier husband of Asha Rani, as alleged by the complainant, did not appear nor any of the family member of Shiv Kumar appeared, who can be held as aggrieved persons from the second marriage of Asha Rani with Sandip Singh. The revision filed by the petitioner has also been correctly dismissed by learned Addl. Sessions Judge, Hoshiarpur, vide judgment dated 21.11.2014.

can be held as perverse or illegal. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below.

In view of the above discussion, the order and judgment passed by both the Courts below, are correct, as per evidence and law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

February 17, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No