

Criminal Revision No. 930 of 2017 (O&M)

Date of decision : March 10, 2017

Yash Pal

.....Petitioner

Versus

Pawan Kumari

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. A.S. Manaise, Advocate
for the petitioner

LISA GILL, J.

This petition has been filed challenging order dated 20.12.2016 passed by the learned Additional Sessions Judge, Pathankot whereby the revision petition filed by the respondent has been partly allowed.

Brief facts are that the respondent-complainant filed a complaint under Sections 406, 498A, 506, 312 IPC and Sections 3 and 4 of Dowry Prohibition Act (Annexure P2) against the present petitioner as well as others raising allegations of ill-treatment, torture and misappropriation of dowry. The present petitioner is the husband of the respondent-complainant. Learned trial Court vide order dated 04.11.2015, dismissed the complaint qua accused No. 1, 3 and 6. The petitioner is accused No. 1 in the complaint. Accused No. 2 – Ashok Kumar (brother-in-law of complainant) Accused No. 4 - Hans Raj (brother-in-law of complainant) and accused No. 5 – Santosh Kumari wife of Ashok Kumar above were summoned to face trial under Section 498A, 406 IPC. They were not summoned for the offences punishable under Sections 312, 506 IPC.

The respondent - complainant preferred a revision petition against the said order seeking summoning of the petitioner and other accused persons left out by the learned trial Court. The revisional Court vide impugned order dated 20.12.2016 partly allowed the revision petition. It was noted that though the learned trial Court has rightly not summoned accused No. 3 and 6, there is no clarity as to why the present petitioner, who is the husband of the respondent, has not been summoned by the learned trial Court. It was, however, observed that the learned trial Court has rightly not proceeded against the accused under Sections 312, 506 IPC. The matter was remanded and the learned trial Court was directed to pass a fresh order qua the present petitioner.

Learned counsel for the petitioner has vehemently urged that the learned revisional Court has virtually sealed the petitioner's fate even though the matter is purportedly remanded. It is submitted that the complaint is baseless and unsubstantiated and the learned trial Court had rightly not summoned the present petitioner. Furthermore, it is mandatory for the learned Magistrate to comply with provisions of Section 202 Cr.P.C. as the petitioner is residing in District Kathua in the State of Jammu and Kashmir. Therefore, this petition should be allowed.

Heard, learned counsel for the petitioner. I have perused the file including the complaint dated 01.11.2013 (Annexure P-2). The learned revisional Court on detecting an obvious lack of clarity for not summoning the present petitioner has remanded the matter to the learned trial Court for deciding the matter afresh qua the petitioner after taking into consideration the entire facts and circumstances of the case. It is doubtless that as a consequence the learned trial Court shall reconsider the matter afresh and

arrive at a decision in accordance with law. Mere unsubstantiated apprehensions raised by the petitioner cannot be the basis for setting aside the impugned order merely remanding the matter to the learned trial Court. Learned counsel for the petitioner is unable to point out any irregularity or infirmity in the impugned order dated 20.12.2016 which calls for interference by this Court.

Resultantly, this petition is dismissed.

March 10, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No