

CWP-2324-2014 (O&M)
Date of Decision : 09.02.2017

Hirdaypal Singh Bhinder etcPetitioner

versus

State of Punjab and othersRespondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Harvinder Pal Singh Ghuman, Advocate
for the petitioners.

Mr. Amit Singh Sethi, Addl.A.G., Punjab.

Mr. Puneet Jindal, Senior Advocate with
Ms. Sakshi, Advocate
for respondent No. 7.**M.M.S. BEDI, JUDGE (ORAL)**

Respondent No. 7 being an NRI had filed a complaint against the petitioners of having misappropriated the dowry articles and having fraudulently left her with an intention to marry another girl in India. The complaint had been entertained by the NRI Commission and notice was issued to the parties to appear before the Commission on 15.06.2013 and the service was ordered to be effected through the Commissioner of Police, Amritsar.

The interim order passed by the Commission for NRI's, Annexure P-3, has been challenged in the present writ petition on the ground that the Commission has got no jurisdiction to conduct the proceedings in the complaint filed by respondent No. 7 as no procedure or rules have been prescribed till date laying down the guidelines and the extent of jurisdiction of the Commission; the complaint having been filed through GPA; there being no proof of engagement having taken

place in Chandigarh and the handing over of alleged dowry articles. Notice having been issued to the respondents, counsel for respondent No. 7 has submitted that the present writ petition is not maintainable as the petitioners had earlier filed a similar writ petition CWP No. 20028 of 2013 which had been withdrawn on 11.09.2013 with liberty to the petitioners to raise all the pleas available to them before the Commission. In the light of factum of first petition having been withdrawn, the second petition, on same cause of action, is challenged to be not maintainable.

In the reply filed on behalf of the Commission, relying upon the provisions of Punjab State Commission for Non-Resident Indians Act, 2011 which was enacted for constituting a Commission for Non-Residents Indians with a view to protecting and safeguarding the interests of the Non-Resident Indians in the State of Punjab and to recommend remedial measures for their welfare and other matters connected therewith or incidental thereto, it has been submitted that the Commission has got jurisdiction to look into the complaint of an NRI as respondent No. 7 is admittedly an NRI. So far as the order Annexure P-3 is concerned, it has been clarified by the Assistant Inspector General of Police, NRI and Women Wing SAS Nagar as well as in the reply filed by the Secretary, Punjab State Commission for NRI's that the Commission had not passed any restraint orders against the petitioners and has only asked respondent No. 6 to look into the matter at its own end and take an appropriate action, in accordance with law. Such an

order, at this stage, cannot be said to be detrimental to the right of the petitioners in any manner.

I have considered the facts and circumstances of the case and I am of the opinion that this petition deserves to be dismissed on the ground that it has been filed by concealing the fact that the first petition had been withdrawn with liberty to raise all the possible pleas before the Commission but instead of raising all possible pleas before the Commission, the instant writ petition filed by the petitioners is not maintainable. Since no prejudicial order has been passed by the Commission till date and an interim recommendation has only been given requiring respondent No. 6 to look into the matter at its own end and to take an appropriate action, in accordance with law, the petitioners do not seem to have any cause of action. The jurisdiction of the Commission may be challenged by the petitioners by appearing before the said Commission. In case, any order prejudicing the legal rights of the petitioners, contrary to the provisions of law is passed, it will always be open to the petitioners to avail the legal remedies available to the petitioners.

Learned counsel for the petitioners has placed reliance on a judgment in ***Jatt Ram versus Punjab State Human Rights Commission*** 2005 (3) R.C.R. (Criminal) 716 in which the Human Rights Commission had ordered cancellation of FIR and directed the re-investigation of the criminal case. The said judgment had doubted the jurisdiction of the Human Rights Commission to pass such an order. The said judgment is,

however, not applicable to the facts of the present case.

In view of the above, the petition is dismissed as premature with liberty to the petitioners to raise all the pleas of fact and law before the Commission which had got jurisdiction to look into the complaint filed by respondent No. 7.

Nothing said in this order will prejudice the rights of the parties in the proceedings pending before the Commission or before any other authority. The interim order earlier passed is hereby vacated. The petitioners will now appear before the Commission on 28.02.2017 for further proceedings as the order Annexure P-3 requiring the parties to appear on particular day, had been stayed by an interim order passed by this Court.

(M.M.S. BEDI)
JUDGE

09.02.2017
Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No