

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

CRM-M-11214-2018 (O&M)

Date of Decision: 01.11.2018

Sukhjeet Dhindsa

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.K. Bawa, Advocate
for the petitioner(s).

Mr. Jagmohan Ghumman, D.A.G., Punjab.

None for respondent No.2.

ANITA CHAUDHRY, J

The petitioner is seeking quashing of FIR No.06 dated 02.02.2013 registered under Sections 406, 498-A IPC at Police Station NRI, District Jalandhar.

The pleadings are complete. On the last date of hearing, counsel for the petitioner had pointed out that daughter of respondent No.2 had remarried. The State was asked to verify the fact. They have submitted their report, according to which, they had contacted Amardeep Kaur who responded to the e-mail but did not disclose any fact. However, the petitioner provided some details according to which, daughter of respondent No.2 had got married.

Counsel for the petitioner contends that the petitioner got married to Amardeep Kaur in December, 2009 and the marriage was registered in January, 2010. Counsel submits that Amardeep Kaur was a

citizen of Canada and she went abroad on 08.02.2010 and the petitioner went abroad in October, 2010. The counsel submits that the petitioner left the Company of his wife in June, 2011 and all the allegations which have been made by father of Amardeep Kaur relate to the incident which happened in Canada and the demand of dowry is also said to have been made in Canada, therefore, the police in India could not investigate. Counsel further submits that a divorce petition was filed by Amardeep Kaur in the Courts in Jalandhar and a wrong address was shown as petitioner was abroad and an *ex parte* decree of divorce was obtained in January, 2014. Counsel submits that the police had inquired into the matter and had noted in the report that the couple were living abroad and therefore, no action was required to be taken but the complainant gave another representation and thereafter challan was filed. Counsel further submits that the petitioner was declared proclaimed offender and challan was presented against him but thereafter, he filed anticipatory bail which was allowed and supplementary challan was filed in April, 2018.

Notice has been given to respondent No.2. They have failed to appear or respond or counter the allegations made by the petitioner.

State counsel informs that only the complainant had appeared to make his statement and the complainant's daughter did not appear to make statement even under Section 161 Cr.P.C.

A perusal of the FIR shows that the complainant's daughter is a resident of Canada. She had come to India to get married. The marriage was registered in January, 2010 and the complainant's daughter went abroad on 08.02.2010. The allegations in the FIR further show that allegations were made that the petitioner along with his parents, while staying in Canada,

started demanding dowry articles and a car of a higher range and Rs.25 lakh and a house in Canada. The allegations are that the daughter of the complainant had given this information to the complainant through e-mail. Though she had come to India and made a statement in the divorce proceedings, which was though filed by her through the attorney. The order shows that she appeared and got her statement recorded in the divorce proceedings.

The allegations in the FIR were relating to the period when the couple was in Canada. It has not been shown that any complaint against the petitioner had been made to the Canadian Authorities. The couple had separated in 2011 and their stay together was only for about a year. The alleged incident took place on foreign soil and could not be investigated by the police in India. It is settled that offence of cruelty is not a continuing offence as contemplated under section 178 Cr.P.C. Reference can be made to *Amarendu Jyoti Vs. State of Chattisgarh 2014(3) ACR 2740(SC)*, *Manish Ratan and others Vs. State of M.P. and another 2007(2) ACR 1451(SC)*. In this view of the matter, the Courts in India have no jurisdiction in the matter and it was the Canadian Court which had the jurisdiction.

Considering the above, I find that it is a fit case where the FIR should be quashed as it would be abuse of the process of law and the Courts.

The petition is allowed.

November 01, 2018

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No