

CRM-M-1168 of 2016 (O&M)

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

CRM-M-1168 of 2016 (O&M)

Date of Decision: 25.09.2018

Smt. Ramesh Kumari and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sunil Chadha, Sr. Advocate,
with Ms. Swati Verma, Advocate, for the petitioners.
Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing FIR No.239 dated 25.11.2015 registered under Sections 406, 420 and 120-B IPC at Police Station Civil Lines, Patiala, District Patiala, as well as all subsequent proceedings arising therefrom.

Briefly, son of respondent No.2, namely, Chandan Sharma, was married to Neha Sharma daughter of petitioner No.1 and sister of petitioner No.2 on 07.10.2013. It was second marriage between them. According to the son of respondent No.2, after marriage, they lived together only for 20 days. Thereafter, Neha Sharma left for Australia on 27.10.2013 with a promise to her husband Chandan Sharma to call him to Australia in due course of time on completion of necessary formalities. However, non-fulfilment of promise by

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Neha Sharma earned annoyance of her husband Chandan Sharma, who resultantly filed divorce petition under Section 13 of the Hindu Marriage Act on 27.05.2015. Six months thereafter, respondent No.2 father of Chandan Sharma lodged instant FIR against the petitioners, levelling allegations that they had fraudulently charged ₹15.00 lakh from him on false pretext of settling his son Chandan Sharma in Australia after marriage with Neha Sharma. But they did not fulfil their promise and raised further demand of ₹25.00 lakh to settle the son of respondent No.2 in Australia.

Learned counsel for the petitioners *inter alia* contends that alleged amount of ₹15.00 lakh was never charged by the petitioners, nor ever paid by respondent No.2 to them on the alleged false pretext of marrying Neha Sharma with son of respondent No.2 and to settle him at Australia. The entire story put forth in the FIR by respondent No.2 is concocted and false, just to take revenge from the petitioners as Neha Sharma, daughter of petitioner No.1 and sister of petitioner No.2 is not willing to live with son of respondent No.2 on account of their temperamental differences, because Chandan Sharma, son of respondent No.2 earlier also was deported from Australia for committing family violence with his first wife, namely, Ashu Sharda, permanently settled there. In support of his contentions, learned counsel for the petitioners placed reliance on ***Lakhwinder Singh v. State of Punjab***, 2000(4) R.C.R.(Criminal) 104.

On the other hand, learned State counsel contends that during investigation, statements of respondent No.2-complainant,

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his son Chandan Sharma and two witnesses were recorded and commission of crime under Sections 406, 420 and 120-B IPC was found to have been committed by the petitioners. Therefore, final report under Section 173(2) Cr.P.C. was filed against them in Court.

Having given thoughtful consideration to the submissions made by both the sides, this Court finds merit in the instant petition for the reasons to follow.

Respondent No.2 has not chosen to contest the petition despite effective service twice; meaning thereby that he is no more interested in pursuing any litigation against the petitioners.

There is no receipt with respondent No.2-complainant against payment of alleged amount of ₹15.00 lakh by him to petitioners. In the absence of any such documentary proof, allegations of respondent No.2 against the petitioners are not liable to be believed, more particularly, when respondent No.2 has not chosen to come forward to contest the instant petition.

It was second marriage between Chandan Sharma son of respondent No.2 and Neha Sharma daughter of petitioner No.1 and sister of petitioner No.2. Therefore, story put-forth by respondent No.2 that he had paid or had agreed to pay ₹15.00 lakh to the petitioners, does not seem to be truthful.

In divorce petition (Annexure P-2) filed by Chandan Sharma son of respondent No.2 against Neha Sharma, he did not plead or allege about payment of ₹15.00 lakh by his father-respondent No.2 to petitioners inasmuch as he would have been the last person not to disclose or plead such fact. He has simply

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put the blame on his wife Neha Sharma in seeking divorce from her without levelling a single allegation against the petitioners.

Facts and circumstances of the aforesaid authority relied upon by learned counsel for the petitioners, squarely cover the facts and circumstances of the present case.

In view of the discussion made above, petition is allowed.
FIR No.239 dated 25.11.2015 is quashed.

September 25, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No