

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

CRM-M-20839-2015(O&M)

Date of decision:-9.8.2018

Major Singh

...Petitioner

Versus

State of Punjab.

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.K.S. Dadwal, Advocate
for the petitioner.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. seeking quashing of FIR No.85 dated 15.11.2010 under Sections 406, 498-A, 120-B IPC, Police Station Dhilwan, District Kapurthala, report under Section 173 Cr.P.C. dated 25.7.2001 as well as order dated 4.8.2005 passed by Judicial Magistrate Ist Class, Kapurthala summoning petitioner to face trial despite settlement of dispute vide proceedings dated 24.12.2004 and divorce dated 9.8.2005 etc., has been filed by petitioner Major Singh, an accused in the case through his father and general of attorney

Karnail Singh.

Inter alia, in the petition it is contended that marriage between the petitioner and Gurbax Kaur daughter of the complainant was solemnized on 5.4.1996 in India and thereafter they shifted to England, where they started residing together but their relations became strained giving rise to matrimonial discord; that the petitioner came to know that Gurbax Kaur was married twice before contracting marriage with him and she was having two children from her earlier marriages; that these facts had been concealed by Gurbax Kaur and her father Santa Singh; that the petitioner and Gurbax Kaur stayed together till 1998 but the petitioner could no longer pull on with her keeping in view life style of Gurbax Kaur, who used to call her friends and others at their residence, to which the petitioner objected, that gave rise to quarrels between the couple; that ultimately, the petitioner was thrown out of the matrimonial home by Gurbax Kaur and petitioner got back his belongings with the help of the police; that the petitioner started residing separately w.e.f. 3.4.2000; that as a pressure tactic Gurbax Kaur got lodged formal FIR No.85 dated 15.11.2000, under Sections 406, 498-A IPC and 120-B IPC against the petitioner and his family members, though there were no specific allegations against the petitioner, the police had submitted challan against Karnail Singh – father, Jeet Kaur – mother, Gardawar Singh, brother of petitioner, however, names of his sisters Balbir Kaur, Gurwinder Kaur, Gurbax Kaur and Randhir Kaur were kept in column No.2, since they had been found innocent during investigation; that the name of the petitioner did not figure either as an accused or in column No.2 of the challan; that when challan was filed in

the Court of Judicial Magistrate Ist Class, Kapurthala, then learned Magistrate had summoned all married sisters of petitioner, namely Balbir Kaur, Gurwinder Kaur, Gurbax Kaur and Randhir Kaur to face trial despite there being no material available against them; that such married sisters of petitioner Balbir Kaur etc. above named had filed CRM-M-809-2004, whereas parents and brother of petitioner had filed CRM-M-7443 of 2004 in this Court, which petitions were accepted and proceedings qua the petitioners there had been quashed. The petitioner further contended that the divorce proceedings were pending between petitioner and Gurbax Kaur in U.K. and ultimately divorce was granted on 9.8.2005; that settlement proceedings had taken place earlier on 24.12.2004, in terms of those proceedings, both the parties had amicably settled the dispute and after divorce, were living separately and had got re-married; that the father of Gurbax Kaur however kept pursuing the matter and Judicial Magistrate Ist Class, Kapurthala vide order dated 4.8.2005 ordered summoning of the present petitioner, that order was challenged by father of petitioner in this Court, however it was ultimately dismissed on technical grounds. The complainant had expired in the meanwhile. According to the petitioner, no offence has been committed by him much less within India and the FIR and other proceedings are nothing but abuse of process of the Court, therefore, FIR along with ancillary proceedings be quashed.

Notice of the petition was issued to respondent – State, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that the petition deserves to be accepted.

The marriage was solemnized between the petitioner and Gurbax Kaur daughter of Santa Singh on 5.4.1996. Though after the marriage, the couple had migrated to U.K. The FIR in question had been got registered by Santa Singh father of Gurbax Kaur and not by Gurbax Kaur that too on 15.11.2000 i.e. after more than four years of the marriage when Gurbax Kaur and her husband, the petitioner had been putting up in England. It is very difficult to believe that family members of the petitioner could harass, maltreat or raise demand of dowry from Gurbax Kaur, when she had been putting up along with her husband in United Kingdom. It comes out that initially the petitioner was not challaned and it was only when an application under Section 319 Cr.P.C. was filed that he was summoned as an additional accused. It comes out that the investigating agency had not found involvement of the petitioner in the case for the said reason he was not sent up to face trial. The FIR and ancillary proceedings against co-accused of the petitioner, who were his family members have already been quashed by this Court. From the record, it comes out that since the petitioner and Gurbax Kaur could not pull on together in United Kingdom, therefore, they got their marriage dissolved by a decree of divorce. In the proceedings, it is clearly mentioned that the spouses were not involved in any proceedings in any Court in England and Wales or elsewhere with regard to marriage except divorce proceedings commenced in December, 2000 at Brantford County Court, but then father of Gurbax Kaur had lodged the FIR. It is also mentioned that parties of marriage had been living apart for a continuous period of at least two years immediately preceding the presentation of the petition and spouses had

separate w.e.f. 3.4.2000. Therefore, it comes out that the father of Gurbax Kaur had lodged the FIR as a pressure tactic only. The petitioner is not shown to have committed any offence in India and whatever dispute was there between him and his wife Gurbax Kaur that was settled in Court in United Kingdom. Therefore, lodging of FIR against him, order summoning him as additional accused under Section 319 Cr.P.C. are nothing but an abuse of process of Court and such FIR, order and ancillary proceedings deserve to be quashed.

Therefore, the petition stands allowed.

9.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No