

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-3804 of 2017
Date of Decision: 19.7.2018**

Amrinder Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana

None for respondent No. 2.

ANITA CHAUDHRY, J (ORAL)

This is a petition for quashing of the FIR No. 164 dated 2.9.2009, registered under Section 498-A, 323, 506 IPC at Police Station Naraingarh, District Ambala, and the order dated 8.2.2012 vide which the petitioner was declared proclaimed offender.

The petitioner was abroad when the order was passed against him. On his appearance, bail was allowed and the petitioner was appearing.

The factual aspects need to be noticed first. The petitioner was married to Komal on 9.7.2008. The petitioner left for Dubai on 9.9.2008 i.e. after two months of the marriage. The wife also went along with her husband. The wife stayed with the petitioner only till October 2008 and came to India and got a case registered in September 2009. The police investigated the matter and declared the petitioner proclaimed offender and

trial, the complainant turned hostile and did not support her own case and the trial against them ended in acquittal on 3.4.2014.

The petitioner came to India and filed a petition under Section 13 of the Hindu Marriage Act seeking divorce on the grounds of cruelty. The wife failed to appear and allowed herself to be proceeded *ex parte* and a decree of divorce was passed on 14.12.2015 (Annexure P-4).

The petitioner now claims that it was the petitioner and his family who were victims and it was not a case of harassment or demand of dowry and the couple had left for Dubai together and the wife stayed with him only for two months and there was no complaint to the authorities in Dubai and it was a case of false implication. It was pleaded that respondent No. 2 was not keen to stay with the petitioners as she was interested in someone else and therefore she returned and initiated the proceedings so as to get rid of them.

Notice was given to the respondents. Respondent No. 2 was served but she chose not to respond.

The State in its reply had pleaded that there were allegations of maltreatment and beating and a sum of Rs. 40,000/- was given to the petitioner for purchase of motor cycle and Rs. One lac has been given to the petitioner's father. It was pleaded that involvement of other relatives was not found therefore, they were not challaned. It was pleaded that parents of the petitioner were arrested and challan was filed against them whereas whereabouts of the petitioner could not be found and he was declared proclaimed offender in February 2012. It was admitted that during trial the complainant did not support and the trial ended in acquittal.

I have heard both the sides.

Counsel for the petitioner has placed on record copy of the statement made by Komal before the trial Court. The main submission on behalf of counsel for the petitioner is that the order vide which the petitioner had been declared proclaimed offender was set aside as he had shown to the Court that he was abroad and the order was passed in his absence and there was concealment of fact by the complainant. It was urged that the complainant had gone with him to UAE after two months of marriage and during the stay in India there was no complaint of harassment or demand of dowry. It was urged that no complaint was made to the authorities in Dubai and the complainant stayed with the petitioner only for two months and she returned to India but filed the FIR after a year. It was urged that a perusal of the FIR would show that the complainant was from a poor family and there would not be any demand and the police did not collect any material to show that any demand had been made and there are just oral assertions and after the complainant had not made any statement against him or his parents it would be an abuse of the process of the Court if the petitioner is sent to face the trial.

The State does not dispute the fact that the petitioner had returned to the country and was allowed anticipatory bail and he had been appearing before the Court below.

The police had investigated the matter and could not collect any material to show that the complainant side had paid any amount. Therefore, there was no evidence to support that any demand had been raised. Moreover, mere demand is not enough. The complainant or her family did not make any report to the police during the stay in India but the complainant later on stated that there were demands which should not have

been accepted. It appears that the complainant wanted freedom and did not want to stay in the marriage and returned home. She did not lodge any FIR and waited for several months before approaching the police in September 2009. In the Court she stated that there was no demand or harassment either by the husband or his parents. In the light of this, it would not be justified to ask the petitioner to face the trial and it is a fit case for exercising jurisdiction under Section 482 Cr.P.C. to quash the criminal proceedings as it would prevent the abuse of process of the Court and would secure the ends of justice.

The petition is allowed and the aforesaid FIR and all consequent proceedings conducted on the basis thereof are quashed.

(ANITA CHAUDHRY)
JUDGE

July 19, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No