

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

CRM-M-40073-2015

Date of decision:-26.9.2018

Sanjeev Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present : Mr.B.S. Bali, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

Mr.Naveen Batra, Advocate
for respondent No.2.

H.S. MADAAN, J.(ORAL)

This petition under Section 482 Cr.P.C. seeking quashing of FIR No.143 dated 22.9.2014, under Sections 406, 498-A IPC, registered with Police Station Nurpur Bedi, District Roop Nagar and subsequent proceedings arising therefrom has been filed by petitioner Sanjeev Kumar, accused in the said FIR.

Inter alia in the petition, the petitioner has contended that he is residing abroad i.e. in Doha Qatar since 28.8.2013, much prior to registration of the FIR in question and solemnization of marriage of complainant – Harjit Kaur, who is respondent No.2 in the petition with Rajiv Kumar, brother of petitioner on 7.11.2013. According to the petitioner, he has been roped in the case simply for the reason that he is brother of husband of complainant though the allegations against him

are vague and of general nature; that as a matter of fact, he had not attended the marriage between the complainant and Rajiv Kumar being abroad; that he had left India on 28.8.2013 as is evident from the copy of the passport attached; the marriage between the complainant and Rajiv Kumar was performed on 7.11.2013; unfortunately after the marriage some differences arose between the couple and their relations became strained; the complainant left the matrimonial home on 2.5.2014 and since then she is residing at her parental place; that due to such attitude of the complainant, father of the petitioner became mentally disturbed and ultimately died on 26.6.2014; the petitioner came to India to attend cremation of his father on 27.6.2014 and stayed there till 8.8.2014; that he did not meet the complainant during his such visit as she was not there in the matrimonial home; the complainant had not come to her matrimonial home for offering condolence at the time of death of her father-in-law; that she did not attend the cremation even; that the husband of the complainant is also residing abroad i.e. Muscat and after registration of FIR, when he came to India, he was arrested by the police from airport, subsequently he was released on bail. According to the petitioner, no offence against him is made out and proceedings under Section 82 Cr.P.C. were wrongly initiated against him; the registration of FIR against the petitioner is an abuse of process of Court, as such it be quashed.

Notice of the petition was issued to respondents, who put in appearance through counsel. Respondent No.1 – State has filed written reply controverting the assertions in the petition, while praying for dismissal of the petition.

I have heard learned counsel for the parties besides going through the record.

The marriage between the complainant and Rajiv Kumar brother of petitioner had taken place on 7.11.2013. As per the copy of the passport of petitioner available on record, he had left India on 28.8.2013. As per second entry stamp made thereon, he had come to India on 29.6.2014 that means that he had not participated in the marriage ceremonies, which took place at the time of marriage of complainant with Rajiv Kumar. A perusal of the FIR goes to show that allegations against the petitioner are quite vague and general lacking specific details. In the cases relating to matrimonial dispute, a tendency does exist to involve as many relatives of the husband as possible. The instant case appears to be that type. The co-accused of the petitioner namely mother Surjit Kaur and brother Rajiv Kumar, who had faced the trial, in terms of judgment dated 7.11.2017 by Judicial Magistrate Ist Class, Sri Anandpur Sahib are shown to have been acquitted of the charge framed against them, since the complainant Harjit Kaur had not supported the prosecution story and rather stated that the family members of her in-laws never demanded any dowry nor tortured or harassed her in connection with demand of dowry and she did not want to take any action against them. Though, she was declared a hostile witness and APP was allowed to cross-examine her but without any fruitful result. The marriage between Rajiv Kumar and Harjit Kaur had also been dissolved by a decree of divorce by mutual consent vide judgment dated 7.11.2017 by Additional Civil Judge(Sr.Divn.), Sri Anandpur Sahib exercising the powers of District Judge under Hindu

Marriage Act. A perusal of the judgment goes to show that Harjit Kaur has received a sum of Rs.4,50,000/- from her husband Rajiv Kumar for the purpose of settlement and it was agreed that she would withdraw petition under Section 125 Cr.P.C., 128 Cr.P.C. and under Domestic Violence Act besides case under Sections 406, 498-A IPC. The statement of Harjit Kaur is also available on the record in that respect, which means that the matter has been compromised. The complainant has settled the dispute with her husband. The marriage between them has been dissolved by a decree of divorce by way of mutual consent. She has received a sum of Rs.4,50,000/- under the settlement.

The continuation of criminal proceedings against the present petitioner shall not serve any purpose and would rather amount to abuse of process of law and interest of justice demands that FIR along with ancillary proceedings arising therefrom be quashed.

Accordingly, the petition is allowed and the abovesaid FIR alongwith ancillary proceedings, is hereby quashed.

(H.S.MADAAN)
JUDGE

26.9.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No