

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 6890 of 2013 (O&M)

Date of decision : 27.9.2018

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Mangal Das Gautam and another

.....Petitioners

vs.

State of Haryana and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Paramveer Singh, Advocate for the petitioners.

Mr. Brijesh Sharma, Assistant Advocate General,
Haryana.

Mr. J.S. Thakur, Advocate for respondent No.2-complainant

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H. S. Madaan, J.

This petition under Section 482 Cr.P.C. has been filed by Mangal Dass Gautam and his wife Neelam Gautam, presently residing in USA, through their special power of attorney Charanjit Singh, against State of Haryana and Neha – complainant, seeking quashing of FIR No. 238 dated 19.10.2012 for offences under Sections 323, 406, 498-A, 506 IPC, registered at Police Station Ambala Sadar, Ambala and consequent proceeding arising out of the said FIR; further for quashing of order dated 9.10.2012 passed by

ACJM, Ambala, directing the registration of the case and investigation under Section 156 (3) Cr.P.C.

Inter alia in the complaint, it is contended that Neha complainant -respondent No.2 in the petition was married with Paras Gautam, son of the petitioners on 15.10.2010. After marriage, Paras Gautam and Neha stayed at Panchkula for a few days and then left India for United States on 29.10.2010. Paras Gautam has been residing in USA before his marriage. Similarly, petitioners have also been residing in USA, putting up alongwith their elder son in California and they had only occasional interaction with the complainant and her husband Paras Gautam. There was absolutely no interference by the petitioners in the marital affairs of Paras Gautam and Neha. Unfortunately, Paras Gautam and Neha could not pull together and developed a matrimonial discord. Resultantly, Paras Gautam filed a divorce petition in the Court of law in USA. Neha returned to India since she was not a permanent resident of USA and filed a criminal complaint in the Court of ACJM, Ambala, which culminated in registration of FIR against the petitioners and their son Paras Gautam . In such FIR, Neha has levelled allegations of her maltreatment and harassment in connection with demand of dowry by her husband Paras Gautam and his parents – the petitioners and they having misappropriated her dowry articles.

According to the petitioners, the allegations in the FIR are totally false and it has been got registered as a pressure tactics in response to the divorce petition filed by Paras Gautam against Neha. Therefore the FIR in question be quashed.

On notice, respondents appeared and after opposing the petition, are craving for dismissal of the petition.

I have heard learned counsel for the petitioners, learned State counsel for respondent No.1 and learned counsel for the complainant -respondent No.2, besides going through the record and I find that there is merit in the petition.

It is not in dispute that petitioners and their son have been non-resident Indians and they had come to India for a short duration in connection with marriage of Paras Gautam with Neha, returning to USA thereafter. Admittedly, after contracting marriage with Paras Gautam, Neha had also gone to USA, where unfortunately the two spouses could not pull on together giving rise to discord between them, which ultimately resulted in their marital ties, coming to an end and the same being terminated by way of decree of divorce.

The petitioners have placed on file documents in that regard going to show that divorce proceedings then pending before District Court, Jefferson County, Colorado, USA and as per agreement there was stipulation regarding the return of jewellery articles to Neha. Copy of separation agreement is also available on the record showing that the spouses had separated on 18.9.2012 and their marriage had broken down irretrievably. The separation agreement was based on full and fair disclosure of the assets and liabilities of each party. Vide this agreement, there was division of property and debts, which included personal property, jewellery, personal items, vehicles, wedding dress, India real estates, leased residence, businesses, bank accounts etc., including the maintenance

aspect. Almost every possible eventuality has been taken care of vide this agreement. Then decree of divorce dated 26.4.2013 is also there. The respondent-complainant having accepted and subjected herself to the jurisdiction of the Court at America, obtaining benefits under the settlement, now she cannot challenge the said settlement and decree of divorce. She is estopped from challenging that settlement and decree of divorce.

As regards the FIR lodged, it is highly unlikely that soon after the marriage, the complainant was subjected to harassment and maltreatment at the hands of her in-laws, during a span of a few days, when they were together before petitioners returned to USA, followed by the complainant.

Similarly, the petitioners could not have possibly taken away *istridhan* articles, if any, of the complainant, to USA. If that had happened, the complainant who is an educated girl, would have informed the police at the earliest, rather than keeping quiet and not taking any action at that very time. As it comes out, the dispute between Neha and her husband had taken place in USA, where it was ultimately resolved. The complainant returning to India from USA and lodging FIR in question against her husband and parents-in-law, is nothing but an abuse of the process of law. Further more the marriage between Neha and her husband has been dissolved and a settlement has been arrived at between them through the Court of competent jurisdiction at USA. Therefore, it would be in the fitness of things if the FIR in question and subsequent proceedings qua the petitioners are brought to an end.

Therefore, the petition is accepted and the FIR No. 238 dated 19.10.2012 for offences under Sections 323, 406, 498-A, 506 IPC, registered at Police Station Ambala Sadar, Ambala, alongwith ancillary proceedings are ordered to be quashed qua the petitioners.

27.9.2018
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(H.S. Madaan)
Judge

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