

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

Crl. Misc. M-47494 of 2017 (O&M)

Date of Decision: March 21, 2018

Gurdev Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. N.S. Brar, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for quashing the summoning order dated 29.11.2016 passed by the Judicial Magistrate Ist Class, Ferozepur as well as order dated 22.08.2017 passed by the Additional Sessions Judge, Ferozepur, whereby the revision filed by the petitioner against the summoning order dated 29.11.2016 has been dismissed.

2. In short, petitioner-accused Gurdev Singh solemnized a marriage with respondent-complainant Manjit Kaur thirty years ago and out of this wedlock, two boys and one girl was born. On account of drinking habits of the petitioner, he used to physically abuse the complainant and turned the complainant out of her matrimonial home. The complainant thereafter filed a case for maintenance, which was allowed. The petitioner later solemnized a marriage with one Baljinder Kaur daughter of Buta

Singh, without taking divorce from the complainant, which led to the present complaint being filed.

3. The Judicial Magistrate Ist Class, Ferozepur, after going through the testimony of the complainant and the witnesses examined by her in support of her case, by an order dated 29.11.2016 found that there are sufficient ground to proceed against the petitioner-accused under Section 494 of Indian Penal Code, which order was challenged in revision before the Additional Sessions Judge, Ferozepur, who in turn dismissed the revision petition by an order dated 22.08.2017. Aggrieved against the said order, the instant petition has been preferred.

4. Mr. N.S. Brar, learned counsel appearing on behalf of the petitioner argues that there is nothing on the record to prove the second marriage of the petitioner with one Baljinder Kaur. Even otherwise, complainant Manjit Kaur was previously married to one Gurdeep Singh resident of Billage Mandar Kalan and thereafter, started residing with him and therefore, cannot be called as a legally wedded wife either.

5. I have heard learned counsel for the petitioner, apart from perusing the copy of the complaint and the impugned orders so passed.

6. The Judicial Magistrate Ist Class, Ferozepur, in the impugned order dated 29.11.2016, while taking note of the allegations against the petitioner-accused that he solemnized a second marriage with Baljinder Kaur @ Kuldeep Kaur daughter of Buta Singh, without taking divorce from the complainant, apart from the testimony of complainant and the witnesses examined by her in support of her case i.e. CW2 Kuldeep Singh i.e. son of the complainant and CW3 Jassa Singh i.e. Member Panchayat, who

supported and corroborated the allegations levelled by the complainant as well as photograph of second marriage of the petitioner-accused, observed as under;

“... There are sufficient ground to proceed against the accused No.1 only under Section 494 IPC. There is no specific averment qua each accused No.2 to 13 to show their presence/participation in the alleged second marriage. Accordingly, the complaint against accused No.2 to 13 is dismissed. Finding only general allegations for offence under Sections 420, 406, 498-A, 323, 506 IPC, the complaint under the said sections is also dismissed. Let the accused No.1 only be summoned under Section 494 IPC to face the trial in the present complaint.....”.

7. A perusal of the said order passed by the Judicial Magistrate Ist Class, Ferozepur would reflect that the material available with the court was considered and after applying its judicial mind, the court decided to proceed against the petitioner-accused under Section 494 of IPC.

8. The arguments so raised before this court, have been duly raised in revision before the Additional Sessions Judge, Ferozepur, which was dismissed by the impugned order dated 22.08.2017, while observing as under;

“The averments of the complainant on oath cannot be brushed-aside at this stage. The arguments put forth by the counsel for the revisionist are on merits of the case, which the trial court would consider during the trial at the appropriate stage.”

9. This court is of the considered view that there is no infirmity or illegality in the impugned orders so passed by the Judicial Magistrate Ist Class, Ferozepur as well as the Additional Sessions Judge, Ferozepur. Accordingly, finding no merits in the instant petition, the same is hereby dismissed.

10. Anything said or observed by this court in this order shall have no affect on the merits of the case.

March 21, 2018
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(JAISHREE THAKUR)
JUDGE

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