

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i) CRM M-18613-2018 (O&M)

Hardeep Kaur and another Petitioners
Versus

Upinder Singh Sidhu Respondent

(ii) CRM M-33745-2018 (O&M)

Kamaljit Kaur and others Petitioners
Versus

Upinder Singh Sidhu Respondent

(iii) CRM M-49458-2017 (O&M)

Nirmal Singh and others Petitioners
Versus

State of Punjab and another Respondents

(iv) CRM M-43519-2018 (O&M)

Manjinder Singh Bajwa and others Petitioners
Versus

Upinder Singh Sidhu Respondent

Date of Decision : 23.05.2019

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Navkiran Singh, Advocate

for the petitioners.

Mr. Rajan Singh Dadwal, Advocate
for respondent-Upinder Singh Sidhu.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

RAJ SHEKHAR ATTRI, J. (Oral)

This order shall dispose of CRM-M-18613-2018, preferred by petitioners Hardeep Kaur and Dalbir Singh, CRM-M-33745-2018, preferred by Kamaljit Kaur, Jaswinder Singh and Gurdeep Kaur, CRM-M-49458-2017, preferred by Nirmal Singh, Bhagwan Kaur, Gurjant Singh and Gurminder Singh alias Gurwinder Singh alias Laddi and CRM-M-43519-2018, preferred by Manjinder Singh Bajwa, Sukhchain Singh Bajwa and Mohinder Kaur Bajwa for quashing of criminal complaint No.COMI/29/2017 dated 28.04.2017, titled as Upinder Singh Sidhu vs. Manjinder Singh Bajwa etc., filed under Sections 420, 323, 406, 498-A, 120-B, 34 IPC as well as summoning order dated 28.09.2017 and proclamation order dated 23.07.2018, passed by the learned Sub Divisional Judicial Magistrate, Jagraon, District Ludhiana.

Initially informant Simranjeet Kaur Sidhu, wife of Manjinder Singh Bajwa submitted an application No.2706 P.C.1 dated 19.10.2016 to the police against her husband and seven more of his relatives namely Sukhchain Singh Bajwa, Mohinder Kaur Bajwa, Nirmal Singh, Gurdeep Kaur, Jaswinder Singh, Kamaljeet Kaur and Gurminder Singh alias Laddi, alleging that all of them under a criminal conspiracy had been demanding dowry and maltreating her and they were threatening her with cruelty for bringing insufficient dowry. On her application, the FIR No.19 dated

23.12.2016 was registered under Sections 498-A, 406 IPC, only against Manjinder Singh Bajwa-husband, Sukhchain Singh Bajwa/father-in-law and Mohinder Kaur Bajwa/mother-in-law.

However, subsequently, Upinder Singh Sidhu, who is the father of said informant Smt. Simranjeet Kaur Sidhu, filed a complaint under Sections 420, 323, 406, 498-A, 120-B, 34 IPC against 12 persons. However, this time, he included four more persons namely Bhagwan Kaur, Hardeep Kaur, Dalvir Singh and Gurjant Singh. The name of aforesaid four persons were not mentioned in the application, submitted to the police by Simranjeet Kaur Sidhu nor included in the FIR. It is asserted in the said complaint that all of them were demanding more dowry; that they were harassing, taunting and beating his daughter Smt. Simranjeet Kaur Sidhu, for bringing insufficient dowry. It has been further submitted that some of the petitioners-accused are settled in Canada. Numerous instances of cruelty have been given.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioners has submitted that the court at Judicial Magistrate has no jurisdiction to entertain the petition; that there is violation of Section 202 Cr.P.C; that there was no valid marriage between the parties and that the complainant party failed to establish if they are Jat Sikhs and further failed to establish if they are governed by customary law and they failed to prove a valid marriage.

Learned counsel for the petitioners has placed reliance upon the judgments of Hon'ble Supreme Court in **Abhijit Pawar vs. Hemant Madhukar Nimbalkar and another 2017 (1) RCR (Criminal) 405;**

Dilawar Singh vs. State of Delhi in Criminal Appeal No.491 of 2002, decided on 05.09.2007; Geeta Mehrotra and another vs. State of U.P. and another 2012 (4) RCR (Criminal) 812; Preeti Gupta vs. State of Jharkhand 2010 (4) RCR (Criminal) 45; the judgments of this Court in Vijay Kumar Kaura vs. UT, Chandigarh and another 2015 (7) RCR (Criminal) 614; Sukhdeep Kaur vs. State of Punjab and another 2015 (4) RCR (Criminal) 892; Sandeep Singh vs. State of Punjab and another 2014 (10) RCR (Criminal) 2424; Anoop Kumar vs. State of Haryana and another 2013 (2) RCR (Criminal) 242; Paramjit Kaur vs. State of Punjab 2011 (5) RCR (Criminal) 686; Mohinder Kaur vs. State of Punjab and another 2010 (2) RCR (Criminal) 597; Rakesh Kumar and others vs. State of Punjab and others 2009 (2) RCR (Criminal) 565; Labh Singh and others vs. State of Haryana 2006 (2) RCR (Criminal) 296 and Harinder Kaur and others vs. State of Punjab 2004 (4) RCR (Criminal) 332.

Learned counsel for the complainant-respondent has submitted that the marriage of Smt. Simranjeet Kaur Sidhu and Manjinder Singh Bajwa was solemnized on 06.03.2016; but petitioner Manjinder Singh Bajwa lived and cohabited with his wife for about 13 days and left her company on 19.03.2016 and thereafter he did not resume her company as he left the country. He has placed reliance upon the judgments of Hon'ble Supreme Court in *Rajendra Kumar Sitaram Pande vs. Uttam 1999 (1) RCR (Criminal) 800; Om Kumar Dhankar vs. State of Haryana and another (2012) 11 Supreme Court Cases 252; Urmila Devi vs. Yudhvir Singh 2013 (4) RCR (Criminal) 899*; the judgment of this Court in *Criminal Misc.No.24871-2015 titled as Bhagwan Singh and others vs.*

State of Punjab and another, decided on 05.04.2016; the judgment of Rajasthan High Court in Nunaram and others vs. State of Rajasthan and another 1993 Criminal Law Journal 1274 and the judgment of Delhi High Court in Satish Kumar alias Sachin Kumar vs. Union of India and others 1993 Criminal Law Journal 1283.

I have given my thoughtful consideration to the rival contentions.

First of all, coming to the contention with regard to the validity of the marriage. The petitioners are disputing the validity of the marriage as per the custom prevalent. Learned counsel for the petitioners has denied that the petitioners are the '*jat sikhs*'. If they are not '*jat sikhs*' then it is for them to prove under what custom, faith or personal law they are governed.

Apart from it, this is a matter of fact and shall be decided on the basis of evidence adduced before the trial court. Therefore, the contention of the petitioners that the complainant failed to prove the validity of the marriage is not sustainable in the eyes of law.

However, in the FIR lodged by Smt. Simranjeet Kaur Sidhu, names of Bhagwan Kaur, Hardeep Kaur, Dalvir Singh and Gurjant Singh have not been mentioned. It seems that the names of said persons have been first time cropped up in the complaint, filed by Upinder Singh Bajwa and it amounts to an improvement. Therefore, to the mind of this court, the complaint qua Bhagwan Kaur, Hardeep Kaur, Dalvir Singh and Gurjant Singh is not sustainable in the eyes of law and it is mere an abuse of the process of law.

In view of aforesaid discussion, the complaint and proceedings emanating therefrom qua petitioners Bhagwan Kaur, Hardeep Kaur, Dalbir

Singh and Gurjant Singh stands quashed.

Accordingly, CRM-M-18613-2018, filed by Hardeep Kaur and Dalbir Singh stands allowed whereas CRM-M-49458-2017 is partly allowed and thus, the complaint and proceedings emanating therefrom stands quashed only qua petitioners Bhagwan Kaur, Gurjant Singh, Hardeep Kaur and Dalbir Singh

However, prima facie, there is sufficient evidence against remaining eight persons to summon them as accused, therefore, CRM-M-33745 & 43519 of 2018 and CRM-M-49458 of 2017 qua petitioners Kamaljit Kaur, Jaswinder Singh, Gurdeep Kaur, Manjinder Singh Bajwa, Sukhchain Singh Bajwa, Mohinder Kaur Bajwa, Nirmal Singh and Gurminder Singh alias Gurwinder Singh alias Laddi stand dismissed.

The facts in *Abhijit Pawar, Dilawar Singh, Geeta Mehrotra, Preeti Gupta, Vijay Kumar Kaura, Sukhdeep Kaur, Sandeep Singh, Anoop Kumar, Paramjit Kaur, Rakesh Kumar, Labh Singh and Harinder Kaur cases (supra)* are distinguishable.

Both the cases i.e. state case registered vide FIR No.19 dated 23.12.2016 and the complaint case shall be clubbed together.

23.05.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No