

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

CRM No.M-37048 of 2013 (O&M)

Date of Decision: January 17, 2019

Prem Singh

...Petitioner

VERSUS

Bachint Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Bains, Advocate
for the petitioner.

None for the respondent.

INDERJIT SINGH, J.

Petitioner Prem Singh has filed this petition under Section 482 Cr.P.C. against respondent Bachint Singh for quashing of complaint No.177 dated 06.10.2008 under Sections 406, 420, 148, 149 IPC qua the petitioner in which summoning order dated 17.11.2008 has been passed in routine manner etc.

Notice of motion was issued. Earlier, learned counsel for the respondent was appearing but later on, none has put in appearance on behalf of the respondent.

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

The perusal of the record shows that Bachint Singh filed a complaint against Sham Kaur, Kulwant Kaur, Nahar Singh, Balwant singh

and Prem Singh under Sections 406, 420, 148 and 149 IPC. He mainly stated the marriage of his son namely Balwant Singh was solemnized with Rajinder Kaur daughter of Preetam Singh in the year 2001 and Rajinder Kaur was residing in England. Accused No.1 is mother-in-law of complainant's son, Kulwant Kaur is relative of accused No.1, accused No.3 Nahar Singh is brother of accused No.1, Balwant Singh is also relative of accused No.1 and Prem Singh is brother-in-law of complainant's son. It is further stated by the complainant that Rajinder Kaur wife of Balwant Singh, was residing in England. Sham Kaur and Kulwant Kaur demanded ₹15 lakhs to migrate son of the complainant to England by saying that there are some complications to migrate Balwant Singh and they have to file Balwant Singh's case and expenditure would be ₹15 lakhs. The complainant stated that marriage of complainant's son was solemnized with Rajinder Kaur in March 2001 and after three months of that, complainant gave ₹7 lakhs to accused Kulwant Kaur and Sham Kaur and son of the complainant had gone to England after six months of his marriage. After the marriage, whenever Sham Kaur visit to India, they demanded money from complainant on one or other pretext and by saying that they are bearing expenditure of Balwant Singh. On 15.04.2007, accused Prem Singh came to complainant in his village Dariyapur Khurd and took ₹3 lakhs for Balwant Singh but instead of giving money to Balwant Singh, they embezzled the amount. It is further in the complaint that in April 2008, son of complainant namely Balwant Singh along with Rajinder Kaur, Sham Kaur, Kulwant Kaur and Preetam Singh came to India. Accused No.1 and Rajinder Kaur asked the complainant that lot of expenditure incurred in England and they are giving installment of house separately and therefore, it would be good if share of Balwant Singh

in agriculture land is sold, so that they can settle in England properly and they also threatened the complainant that if money is not paid to them, then they will send back complainant's son to India. When complainant refused to sell out the land and also refused to give money, accused fought with the complainant. Balwant Singh and Rajinder Kaur went back to England. Thereafter, Sham Kaur, Kulwant Kaur, Nahar Singh and Preetam Singh came to complainant and put pressure upon him by saying that they will send back complainant's son. Then, complainant gave ₹7 lakhs to Kulwant Kaur and Sham Kaur for giving to his son. Again, after five days, they demanded ₹3 lakhs. It is also in the complaint that when all above persons came from England, Sham Kaur took chair, bed and tables from the village of complainant and said that when she will go back to England, they will return the same but when she went back to England, she did not return anything.

On the basis of preliminary evidence, learned JMIC, Mansa summoned the accused under Sections 406 and 420 IPC vide impugned order dated 17.11.2008.

The perusal of the record firstly shows that there is no allegation against present petitioner Prem Singh, who is real brother of Rajinder Kaur. Secondly, perusal of the complaint shows that no date, month has been mentioned as to when any money has been paid and as per averment, money was paid for giving it to Balwant Singh, son of the complainant. Admittedly, marriage took place in the year 2001 and Rajinder Kaur was residing in England and Balwant Singh had gone to England within six months. As per argument of learned counsel for the

petitioner, both of them resided there till 2008 and then Balwant Singh took

divorce from Rajinder Kaur, there being matrimonial dispute.

Learned counsel for the petitioner brought to the notice of this Court the documents Annexure P-5, which is written complaint, received from Kulwant Kaur Thind, 163, Allenby Road, Southall, Middlesex, U.K. By NRI Sabha, Punjab, which was sent to Deputy Commissioner, Mansa. Annexure P-8 is the complaint made by Sham Kaur against Balwant Singh, Jaswant Singh @ Makkhan Singh, Karnail Kaur and Bachint Singh under Sections 498-A and 406 IPC and this complaint has been moved on 01.05.2008. Further, as per Annexure P-7, Kulwant Kaur Thind got registered the FIR on 28.06.2008 against present complainant and other persons under Sections 457 and 380 IPC. Then after four months of the registration of the FIR, present complaint has been filed by the complainant.

The perusal of the record shows that filing of present complaint is nothing but abuse of process of law and amounts to miscarriage of justice and it has been filed as a counter blast to the proceedings conducted by the accused side against the complainant side under Sections 498-A and 406 IPC and FIR under Sections 457 and 380 IPC etc. Furthermore, perusal of the complaint itself does not give any particular regarding cheating or entrustment. The amount is stated to have been paid in the year 2001. There is nothing as to why the complainant kept silent for such a long period. However, as per the averments itself, the son of complainant namely Balwant Singh along with Rajinder Kaur asked for money to pay house installment etc. and the complainant has refused to pay the same. No offence is made out. The averment that ₹7 lakhs was paid to Sham Kaur, Kulwant Kaur and further ₹3 lakhs for forwarding the same to Balwant

Singh, son of the complainant, no particulars etc. have been given. There is

no receipt and only oral averment is there.

Furthermore, in the preliminary evidence, son of the complainant has not been examined to depose that the money, so paid, was not given to him. As already discussed, the filing of the present complaint is nothing but a counter blast to the proceedings initiated by the accused side against the complainant side and complaint has been filed to harass the accused-petitioner. This complaint cannot proceed against other accused as no case is made out against them also.

In view of the above discussion, I find that continuation of proceedings on the basis of present complaint, is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. Complaint No.177 dated 06.10.2008 under Sections 406, 420, 148, 149 IPC along with all subsequent proceedings including the summoning order dated 17.11.2008 passed by learned JMIC, Mansa, are hereby quashed qua the petitioner as well as all other accused.

January 17, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No