

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM-M-38809-2018

Date of Decision:14.11.2019

Pritam Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Amandeep Singh Jawadha, Advocate,
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. J.S. Dadwal, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Petitioners have filed the present petition under Section 482 Cr.P.C. impugning the order dated 02.07.2018(Annexure P-8) passed by learned Judicial Magistrate 1st Class, Ludhiana, whereby bailable warrants were issued against the petitioners as well as the order dated 07.07.2018 (Annexure P-9), whereby in a complaint filed by respondent No.2 under Sections 406, 498-A, 506, 120-B read with Section 34 IPC, non-bailable warrants were issued against the petitioners.

On September 16, 2019, this Court had passed the following order:-

“This petition has been filed by Pritam Singh and Surinder Kaur, who are father-in-law and mother-in-law, respectively, of the Harpreet Kaur, who was married with Kamaldeep Singh (son of the petitioners), seeking quashing of order dated 02.07.2018 (Annexure P-8) and order dated 07.07.2018

(Annexure P-9) passed by Judicial Magistrate Ist Class, Ludhiana.

Vide order dated 02.07.2018 (Annexure P-8), bailable warrants were issued whereas vide order dated 07.07.2018 (Annexure P-9) non-bailable warrants were issued against the petitioners.

Counsel for the petitioner says that vide judgment dated 01.08.2017 (Annexure P-7), Judicial Magistrate Ist Class had dismissed the complaint filed by respondent no.2-complainant under Sections 406, 498A, 506, 120-B and Section 34 IPC against the petitioners, observing that there is no sufficient ground to proceed against the accused persons namely Pritam Singh and Surinder Kaur, the petitioners herein as well as their daughter namely Navjot Kaur.

He has argued that despite the complaint having been dismissed qua the petitioners, learned Magistrate has issued bailable warrants vide order Annexure P-8, followed by order Annexure P-9 issuing non-bailable warrants against them. Thus, learned Magistrate has acted against his own judgment dated 01.08.2017.

The relevant paragraph no.7 of the judgment dated 01.08.2017(Annexure P-7) reads as under:-

“7. After hearing the Ld. Counsel for the complainant and perusing the record on the file, I am of the considered view that (there) are no sufficient grounds to proceed against accused persons namely Pritam Singh, Surinder Kaur and Navjot Kaur under the present complaint. The present complainant is hereby dismissed qua them. Further that offence under section 498-A IPC is prima facie out at this stage against the accused Kamaldeep Singh. Let accused Kamaldeep Singh be summoned to face trial for offence under Section 498-A IPC on filing of PF/Copies of documents etc. within three days by the complainant.

This Court vide order dated 06.09.2018, had sought a

report from the trial Court to clarify whether presence of the petitioners is required as an accused or as witnesses and in reference to the said communication, learned Magistrate has submitted her explanation dated 19.11.2018 that the petitioners Pritam Singh and Surjit Kaur would be required only as accused. However, the record reveals that there is no accused namely Surjit Kaur in the case in hand. This Court finds that learned Magistrate has not co-related the facts with the complete judicial record while submitting her report.

Therefore, the Magistrate is once again directed to furnish her detailed explanation in this regard, which shall be duly cross-checked by learned District and Sessions Judge, Ludhiana.

Adjourned to 14.11.2019.

Interim order to continue.”

As a consequence thereof, a communication dated 04.10.2019 has been received from learned Judicial Magistrate 1st Class, Ludhiana, wherein on the basis of judicial record, it has been reported that only accused Kamaldeep Singh has been summoned and the petitioners-Pritam Singh and Surinder Kaur(wrongly mentioned as Surjit Kaur) were never ordered to be summoned as accused.

This fact is not disputed by learned counsel for respondent No.2.

In view of the conceded position, the present petition is allowed and the orders dated 02.07.2018(Annexure P-8) and 07.07.2018(Annexure P-9) passed by the Court below are hereby quashed.

November 14, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No