

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-42421 of 2014 (O&M)

Date of Decision: 28.08.2019

Manjit Singh Kaleka & others

...Petitioner(s)

Versus

Malkit Singh Punia

...Respondent(s)

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

Present:- Mr. Amarjit Singh Virk, Advocate
for the petitioners.

Mr. J.S. Dhaliwal, Advocate for
Mr. A.S. Brar, Advocate
for the respondent.

HARI PAL VERMA, J. (Oral)

Petitioners no.1 and 2, who are old father-in-law and mother-in-law and petitioners no.3 and 4, who are married sister-in-law and brother-in-law of the complainant, have filed the present petition under Section 482 Cr.P.C. for quashing of Criminal Complaint No.15 dated 20.10.2014 titled as *Malkit Singh Punia Vs. Gurpreet Singh Kaleka and ors.* (Annexure P-4) and Summoning Order dated 05.06.2014 (Annexure P-9) along with all subsequent proceedings arising therefrom.

Respondent-Malkit Singh Punia, who is father of Vimaljit Kaur Kaleka (@ Bimaljit Kaur), had filed an application against the petitioners-accused as well as Gurpreet Singh, who is husband of Vimaljit

Kaur Kaleka with the police authorities. This application was though looked into by the police, but the police did not register a case, obviously it did not find any substance in the same.

Not satisfied with the investigation so conducted by the police, the respondent had filed a Criminal Complaint under Section 156(3) CrPC for issuance of necessary directions to the police to register and investigate a case against the petitioners-accused as well as Gurpreet Singh, who is husband of Vimaljit Kaur Kaleka under Sections 406, 498-A, 420, 465, 467, 471, 120-B IPC read with Sections 3 and 4 Dowry Prohibition Act and read with Sections 3 and 12 Passport Act. Accordingly, the petitioners-accused were summoned vide order dated 05.06.2014 by the Chief Judicial Magistrate, Sangrur. Petitioners no.1 and 2 were summoned under Sections 406, 498-A IPC whereas petitioners no.3 and 4 were summoned for offence under Section 406 IPC.

In this manner, challenge has been laid to the Criminal Complaint (Annexure P-4) as well as summoning order dated 05.06.2014 (Annexure P-9).

Learned counsel for the petitioners has submitted that Gurpreet Singh Kaleka got married with Vimaljit Kaur Kaleka on 22.03.1999. However, the marriage between them could not last long and accordingly, a decree of divorce was granted on 24.06.2011 by the Supreme Court of British Columbia (Canada) (Annexure P-1), which was followed by a certificate of divorce dated 25.07.2011 (Annexure P-2). He submits that after the decree of divorce, both the parties have remarried and are residing in Canada. He has referred to the enquiry report dated

29.06.2007 (Annexure P-3), wherein the Incharge, Women Cell, Sangrur has found that the allegations against the petitioners regarding demand of dowry were false. The concluding paragraph of the same read as under:-

“In the application, the allegations levelled by the applicant against his son-in-law Gurpreet Singh and his family members regarding demand of dowry were found to be false on inquiry. The statements of Pavitar Singh Kulwant Singh recorded during inquiry did not match with one another, from which it is proved that the allegations regarding giving of Rs.10 lacs in cash by Gurdev Singh to the father-in-law and mother-in-law of his niece Bimaljit Kaur on account of their demand of dowry as levelled in the application by the applicant against his son-in-law Gurpreet Singh and his family members could not be substantiated. Bimaljit Kaur d/o Malkit Singh, applicant and his son-in-law Gurpreet Singh along with his parents are residing in Canada, who could not be joined in the inquiry of the application. There is no necessity of any police action on the application. It is recommended that the application be filed.”

He further submits that after marriage, Gurpreet Singh and Vimaljit Kaur Kaleka had visited India on two different occasions. Lastly, she came to India on 04.01.2005 and thereafter, a divorce petition was filed in Canada, which was granted by the Supreme Court of British Columbia (Canada). The petitioners are residing in India throughout and there is no allegation that they ever demanded any dowry or money from the respondent-complainant or from Vimaljit Kaur Kaleka in India or in Canada. During the pendency of the complaint, learned Magistrate had sought a report from the police and accordingly, report dated 29.01.2014 was submitted by SI Gurjant Singh, wherein it was submitted that the

allegation regarding demand of Rs.10,00,000/- by the petitioners as well as payment of Rs.10 lacs by Malkit Singh through his brother-in-law Gurdev Singh (who has since expired) and his wife could not be established, as the complainant could not produce any evidence in support thereof. The relevant extract of the said report dated 29.01.2014 reads as under:-

“From the inquiry of the above complaint, it has come on record that in the year 1999 the marriage of Bimaljit Kaur was solemnized at Singlas Palace, Sangrur with Gurpreet Singh s/o Manjit Singh, Jat, r/o Kamalpur P.S. Dirba. After some days of the marriage Bimaljit Kaur went back to Canada as she is citizen of Canada and after about 1 year, in 2000, Gurpreet Singh also went to Bimaljit Kaur in Canada on marriage basis. He went to Canada on 27.02.2000 through his passport issued from Delhi. Thereafter, the parents of Gurpreet Singh also went to Canada, who had returned back from Canada. The relations of Gurpreet Singh and Bimaljit Kaur remained cordial from 3 years and they live together in Canada. One son Mawanpreet Singh born out of the marriage. Thereafter, their relations became strained and they started living separately. Then Bimaljit Kaur filed a case for maintenance upon Gurpreet Singh, he is paying the same and Gurpreet Singh filed a case of divorce in Canada Court against Bimaljit Kaur. The Canada Court allowed the divorce petition. The photocopy of the same is attached. Both have remarried. The case is under consideration in Canada Court. Apart from it the allegations of demand of dowry alleged to have been committed in Canada. The allegations regarding payment of Rs.10 lacs to Manjit Singh and his wife Jasbir Kaur by Malkit Singh through his brother-in-law Gurdev Singh s/o Balwant Singh, Jat, r/o Kakuwal, who had since expired could not be substantiated as applicant Malkit Singh could not produce any evidence. Apart from it regarding the

allegations of doubt passport and double dates of births, the same were inquired into by the DSP Sangrur. That Gurpreet Singh son-in-law of the applicant went to Canada in year 2000 on the passport issued at Delhi. The place of occurrence of the same being in Delhi, all the documents were sent by SSP Sangrur after taking opinion of DDA/Legal to Police Commissioner, Delhi vide letter No.1392/PL dated 25.03.2008. From the investigation till date, no allegations regarding demand of dowry by Manjit Singh s/o Avtar Singh, Jasbir Kaur w/o Manjit Singh Jat r/o Kamalpur P.S. Dirba, Gurmeet Kaur Atwal w/o Jaswinder Singh and Jaswinder Singh s/o Pritam Singh, Jat r/o Delhi as well as payment of Rs.10 lacs by Malkit Singh through his brother in law Gurdev Singh are not proved nor any demand of dowry by them is proved. Regarding double passport of Gurpreet Singh is proved regarding which SSP Sangrur had already sent all the documents to Police Commissioner, Delhi vide letter No.1392/PL dt. 25.03.2008 to take action as he had gone to Canada from the Passport issued at Delhi. It is also stated in the statement regarding demand of dowry in Canada.

Report is presented.”

On the other hand, learned counsel for the respondent-complainant has argued that there are specific allegations against the petitioners. Merely because the daughter of the complainant has remarried, has nothing to do with the case, more particularly when the allegations in the present complaint relate back to the period before her re-marriage. Moreover, the complaint in question was filed much before the remarriage of Vimaljit Kaur Kaleka. Let petitioners face the trial, where it would be established that they are guilty of the offences stated in the complaint.

I have heard learned counsel for the parties.

There is no dispute that the parties are aged father-in-law, mother-in-law, married sister-in-law and brother-in-law of Vimaljit Kaur Kaleka and they are residing in India. The marriage of Vimaljit Kaur Kaleka had taken place with Gurpreet Singh Kaleka son of petitioners no.1 and 2 on 22.03.1999 in India. However, as the marriage could not pull well, a decree of divorce was granted on 24.06.2011 by the Supreme Court of British Columbia (Canada) (Annexure P-1), which was followed by a certificate of divorce dated 25.07.2011 (Annexure P-2). The daughter of the complainant and the son of the petitioners no.1 and 2, who are otherwise citizens of Canada, have remarried after grant of decree of divorce by the Canada Court. There is nothing on record to show that after 2005, the daughter of the respondent-complainant has ever visited India or whenever she had come to India, petitioners ever made any demand of dowry. Even repeated police enquiry/reports suggest that the allegations levelled against the petitioners-accused in the complaint in question were not established. Therefore, this Court is of the opinion that the present complaint is nothing but sheer abuse of the process of law and the same deserves to be quashed.

Reference may be made to judgment in the case of **Geeta Mehrotra and another Versus State of U.P. and another** 2012(4) RCR (Criminal) 812, wherein Hon'ble the Apex Court has held that in criminal cases arising out of a matrimonial dispute, a fact borne out of experience cannot be overlooked that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute.

In the case in hand, parties were married on 22.03.1999 and stayed in Canada. After divorce from Canadian Court, they got remarried also. Moreover, after 2005, the wife had never visited India, as she is residing in Canada.

Accordingly, the present petition is allowed and Criminal Complaint No.15 dated 20.10.2014 titled as *Malkit Singh Punia Vs. Gurpreet Singh Kaleka and ors.* as well as Summoning Order dated 05.06.2014 and all subsequent proceedings arising therefrom are hereby quashed *qua* the petitioners.

August 28, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No