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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 14th January, 2019

+ CRL.M.C. 898/2016 and Crl. M.A Nos.3759/2016 and
8080/2018

SUBHASH NARULA Petitioner

Through: Mr.Rohit Puri and Mr. J. Rajesh,
Advocates

versus

GOVERNMENT OF NCT OF DELHI & ANR. ... Respondents

Through: Mr. Kewal Singh Ahuja, APP for
State with SI Amit Dutt

Mr. Naresh Sharma, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Raman Narula, son of the petitioner herein, was married to Himani (complainant) i.e. the second respondent, on 02.03.2006. A female child was born out of the said wedlock on 29.11.2006. The marriage of the said persons ran into rough weather, the second respondent and her daughter leaving the house of Raman on 18.01.2007. Eventually, the second respondent lodged certain cases against her husband, he, in turn, suing her for divorce by filing a petition before the Family Court.

2. While the said petition was pending adjudication, the second respondent lodged criminal complaint (CC no.14/2015) on 17.12.2014 impleading Raman Narula and five others as prospective accused, they including the petitioner, father of Raman Narula, as the second accused. In the said complaint, the second respondent alleged, *inter alia*, that while her marriage with Raman Narula was subsisting, he, on account of a criminal conspiracy, the other accused having abetted him, had got him married to Anisha Kaura shown as the fifth accused in the complaint, in a ceremony that had been held on 30.05.2014 at Hotel Crown Plaza, Okhla, New Delhi, this followed by the *Roka* ceremony (or engagement) which had been performed on 29.05.2014 at Hotel Surya, New Delhi.

3. During the course of the pre-summoning inquiry, the second respondent examined herself (as CW-1), also examining Mr. B.S. Bhardwaj (CW-2), an executive of Hotel Surya and Dheeraj Sharma (CW-3), an executive of Hotel Crown Plaza. The Metropolitan Magistrate considered the pre-summoning evidence and, by order dated 28.10.2015, found a case made out for summoning Raman Narula, the petitioner and two others for the offence under Section 494 read with Section 109 of Indian Penal Code, 1860 (IPC), other two persons summoned by the said order being the said Anisha Kaura (described as the second wife) and her father Gulshan Kaura, referred to as the fifth and sixth accused in the criminal case.

4. It may be mentioned here that the second respondent as the complainant of the said case had also sought prosecution of Pushpa

Narula and Ruchika Narula, the mother and sister respectively of her husband Raman Narula, on the allegations that they had abetted Raman Narula in entering into a bigamous marriage during the subsistence of her marriage. The Metropolitan Magistrate, however, was not impressed with this plea and thus declined to issue any process against Pushpa Narula and Ruchika Narula. The complainant also did not take the matter further against them and, thus, the result of the criminal complaint case against such other relatives of the husband of the complainant has attained finality.

5. The petitioner, being the father of Raman Narula (i.e. the husband of the complainant) approached this court with the petition at hand invoking the inherent power and jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) primarily on the ground that he cannot be prosecuted on accusation of having abetted the bigamous marriage of his son, only on account of his presence in the ceremony in the nature of *Roka* (or engagement) and what is alleged to be the marriage function. He places reliance on a decision of the Supreme Court in *Chand Dhawan (Smt.) vs. Jawahar Lal and Others, (1992) 3 SCC 317*, the background of which had more or less similar fact-situation.

6. The petition is resisted by the second respondent (complainant) who has filed alongwith her reply certain further material including the photographs of the two ceremonies in which Raman Narula was initially engaged to Anisha Kaura and thereafter he having entered into a formal marriage ceremony with her, the marriage of Raman

Narula with the said Anisha Kaura also having fallen apart and she, after delivering a female child, having since walked out of the matrimonial home and lodged FIR no.552/2017 with police station Lajpat Nagar on 27.12.2017, alleging she having been subjected to offences punishable under Section 498A, 406 IPC by Raman Narula and those related to him.

7. The case at hand is distinguishable on facts from the case of *Chand Dhawan* (supra) in that the prosecution case is founded not merely on the allegations of the presence of the petitioner in the ceremonies in question. It is indisputable at this stage that the marriage of Raman Narula with the complainant continues to subsist till date. After all, he is his son and has been living with him under the same roof, this being demonstrated, among others, by the birth certificate in respect of the child born to Anisha Kaura out of her *ex facie* bigamous marriage with Raman Narula on 11.06.2015, a copy of the said birth certificate having been placed on record, it apparently having been procured by the complainant from the said Anisha Kaura @ Anisha Narula.

8. The complainant has placed on record copies of the photographs showing active participation on the part of the petitioner in the *ex facie* bigamous marriage of Raman Narula. The photographs leave a clear impression that it was a ceremony in the nature of marriage of Raman, he posing with the other woman just before the ceremonial exchange of garlands.

9. What clinches the issue *prima facie* impelling throwing out of the petition seeking quashing of the proceedings is the material submitted by the petitioner himself in the nature of his signed statement given to a Sub-Inspector of police station Lajpat Nagar on 19.11.2014, during the course of inquiry into a complaint that had been lodged against him by the second respondent. In the said signed statement, the petitioner had indicated that the complainant was a patient of multiple sclerosis and her condition was incurable and, on this account, Raman Narula had found it impossible to lead a life long normal marital life with her. He also stated that the complainant, in the meanwhile, had filed a complaint alleging offences under Sections 498A, 406, 506 IPC and Gulshan Kaura and the father of the alleged second wife having the knowledge of above mentioned facts, had approached him proposing to marry his daughter (Anisha Kaura) with Raman Narula, though he would seek to clarify by stating that the marriage was to be ceremonized “*after getting the decree of divorce*”, a *Roka* ceremony nonetheless was (admittedly) held on 30.05.2014. He described the programme that was held on 29.05.2014 to be “*Sai Sandhya*”. Against the substantive material *prima facie* showing that the said function was actually the *Roka* ceremony and it was followed by a function which was actually the marriage ceremony, Anisha Kaura having moved in to live with Raman Narula under the same roof as the petitioner and she having given birth to a daughter in due course, it cannot be said that the petitioner was not aware of the facts in entirety. It is, thus, clear that the ceremonies purporting to be the second marriage of Raman Narula were performed with tacit

knowledge, and more crucially active participation on the part of the petitioner.

10. In the above facts and circumstances, it is not a case where this court should intervene in the course of the on-going criminal trial initiated against Raman Narula, the petitioner and two others at the instance of the second respondent.

11. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

JANUARY 14, 2019

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