

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

**CRM-M-1339-2014 (O&M)
Decided on : 27.01.2020**

Harpreet Kaur

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Munish Gupta, Advocate
for the petitioner(s).

Ms. Jaspreet Kaur, Asstt. AG, Punjab.

Mr. Mohit Jaggi, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., for quashing of FIR No. 28, dated 07.05.2005, under Sections 420, 494, 495, 406, 498-A, 506, 120-B IPC, registered at Police Station Bhadson, District Patiala (Annexure P-1) as well as report under Sections 173 Cr.P.C. (Annexure P-3) filed by the police before the learned JMIC, Nabha and all subsequent proceedings arising therefrom.

It has been contended that when the petitioner's marriage with Jagroop Singh was solemnized in the year 1980, she was completely in the dark about his alleged first marriage with respondent No.2 – Nachhattar Kaur. It has been further submitted that after marriage, she had been living with Jagroop Singh in USA and when she came back to India, it was only then that she came to know about the registration of FIR No. 28, dated 07.05.2005 against her and her husband. Since the petitioner had been declared as a proclaimed offender in the said FIR, a supplementary challan

was filed *qua* her. Subsequently, another FIR No. 3, dated 06.01.2011, under Sections 420, 447, 498-A, 506, 120-B IPC, was registered against Nand Singh, Mohinder Singh, Ranjeet Kaur @ Surjit Kaur, Kuldip Kaur, Pargat Singh, Gurdhian Singh, Mohinder Kaur and Balwant Singh, at Police Station Bhadson, District Patiala.

It was vehemently urged that in fact, the petitioner had no role, whatsoever *qua* the allegations levelled in the said FIR, since she was not even in the knowledge of Jagroop Singh's alleged marriage with respondent No.2-complainant and had all along been living in U.S.A., since her marriage with Jagroop Singh. Hence, the question of attracting the mischief of Section 406 & 506 IPC *qua* her did not arise. It was submitted that the co-accused, who were named in the said FIR and *qua* whom there were serious allegations already stood acquitted by the trial Court and even the appeal against their acquittal had since been dismissed by this Court. It was further submitted that as far as the petitioner was concerned, she was not even named in the FIR in question. It was thus submitted that if at all there were serious allegations, they were against her husband, who had since expired on 06.01.2013, and she had just been made a scapegoat with the sole purpose of extracting money and property from her.

Learned counsel for respondent No.2 vehemently opposed the submissions made by the counsel for the petitioner by urging that the petitioner was in fact an active conspirator along with Jagroop Singh. The petitioner was well aware of the fact that Jagroop Singh was already married to respondent No.2, yet she got married to him and thereafter fled to the USA. So much so, the ornaments of respondent No.2 were sold off by the petitioner along with the co-accused and from the proceeds received from the sale, land was purchased in the name of her two sons and three sons of

the co-accused Mohinder Singh. It was thus, submitted that the petitioner had rightly been challaned for the offences under Sections 420, 494, 495, 406, 498-A, 506, 120-B IPC.

I have heard learned counsel for the parties and perused the case file.

As per the allegations levelled by respondent No.2 in FIR Jagroop Singh after marrying the respondent No.2 – complainant had gone abroad. On one of his trips to India Jagroop Singh married the petitioner and thereafter both Jagroop Singh and the petitioner went abroad. On a perusal of the allegations, it is evident that to attract the mischief of Section 406, 506 IPC *qua* misappropriation of the dowry and the threats being extended to respondent No.2, there are no attribution *qua* the petitioner but against the co-accused, who already stand acquitted by the trial Court vide order dated 31.10.2009 (Annexure P-4).

As settled by this in ***Hari Singh Vs. Chander Parkash and others, 2007 (2) Crimnal Court Cases 87***, in order to prove a second marriage having been performed during the subsistence of the first one, it would be essential to prove that the same had been solemnized as per the rites and customs of the parties. However, in the instant case, except for the bald allegations of respondent No.2 – complainant that the petitioner had married Jagroop Singh, no evidence, whatsoever, has been brought forth to prove that the petitioner had solemnized marriage with Jagroop Singh and more particularly, it had been performed as per their rites and customs.

In the circumstances, I have no hesitation in holding that the instant petition deserves to be allowed. Consequently, FIR No. 28, dated 07.05.2005, under Sections 420, 494, 495, 406, 498-A, 506, 120-B IPC, registered at Police Station Bhadson, District Patiala (Annexure P-1) as well

as report under Sections 173 Cr.P.C. (Annexure P-3) filed by the police before the learned JMIC, Nabha and all subsequent proceedings arising therefrom, are hereby set aside.

(MANJARI NEHRU KAUL)
JUDGE

January 27, 2020

J.Ram

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