

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

CRM-M-38281-2015 (O&M)

Date of decision: 06.03.2020

Veer Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Vaibhav Narang, , Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner Veer Kaur wife of Amrik Singh against State of Punjab and Amrik Singh (name since deleted). The petitioner seeks quashing of criminal complaint No.07 dated 23.09.2015 and summoning order dated 23.09.2015, passed by the Court of Judicial Magistrate Ist Class, Amritsar and the subsequent proceedings arising therefrom. According to the petitioner, she was married with one Amrik Singh on 10.06.1983 and the couple was blessed with a daughter named Mandeep Kaur. Relations between the petitioner and her husband got strained and Amrik Singh had been maltreated the petitioner after their marriage and turned her out from the matrimonial home along with their daughter Mandeep Kaur. The efforts for their rehabilitation in the

matrimonial home proved to be futile. Husband of the petitioner stopped paying any maintenance to the petitioner and Mandeep minor daughter. Therefore, they had filed a petition under Section 125 Cr.P.C. against Amrik Singh for grant of maintenance. Subsequently, the present petition withdrew the petition under Section 125 Cr.P.C. on her behalf, whereas with regard to Mandeep Kaur it continued. Mandeep Kaur was granted maintenance to the tune of Rs.350/- per month. A revision petition was preferred against that order, which was allowed vide judgment dated 08.04.1999 and maintenance amount was enhanced to Rs.500/- per month. On 14.11.2003, Mandeep Kaur through her mother had filed an application under Section 127 Cr.P.C. for enhancement of monthly maintenance from Rs.500/- to Rs.4000/- per month. It was mentioned in the application that since cost of living has increased manifold due to inflation and devaluation of money, the Magistrate at Amritsar, vide order dated 14.09.2005 had allowed the application under Section 127 Cr.P.C. and enhanced the maintenance from Rs.500 to Rs.2000 per month.

Amrik Singh had not paid any maintenance to his daughter, as such, an execution application was filed on 15.10.2005. In reply to said application, Amrik Singh had filed an application for setting aside the ex parte order dated 14.09.2005, further pleading that Mandeep Kaur is more than 21 years of age, an order was passed at back of Amrik Singh, therefore, that be set aside. The application filed by

Amrik Singh was however dismissed.

Amrik Singh challenged the order dated 26.05.2010 in a revision petition under Section 397 Cr.P.C. before Addl. Sessions Judge, Amritsar, which was also dismissed, vide order dated 04.07.2011.

Amrik Singh had brought application under Section 340 Cr.P.C. against his wife Veer Kaur stating that she had played a fraud with the Court by alleging that Mandeep Kaur was minor. Learned JMIC, Amritsar had dismissed the application, vide order dated 29.03.2015.

Amrik Singh had challenged the order in an appeal before Addl. Sessions Judge, Amritsar. His appeal was accepted and case was remanded back with a direction to the trial Court to pass order in view of Section 340 Cr.P.C. Accordingly, a fresh order was passed by JMIC, Amritsar, holding that the petitioner had intentionally given a false affidavit in judicial proceedings of application under Section 127 Cr.P.C. Therefore, in pursuant to said order dated 19.08.2015, a complaint under Sections 191/193 IPC has been filed by JMIC, Amritsar against the petitioner. The petitioner is seeking quashing of said complaint No.07 of 2015 as well as summoning order dated 23.09.2015 for the reason that according to the petitioner, learned Magistrate before summoning the petitioner to face trial has not considered that there is definite opinion which is clear from the record

that a false statement had been given but especially there has to be an opinion that it would be expedient and in the interest of justice to proceed with the matter. Refuting the remaining assertions, she prayed for dismissal of application.

Notice of the petition was given to the respondent, which has put in appearance through counsel and is vehemently opposing the petition.

I have heard learned counsel for the parties besides going through the record.

Section 482 Cr.P.C. deals with saving of inherent powers of High Court. It provides that nothing in this Code (Cr.P.C. 1973) shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

In the present case, the petitioner craves for use of inherent powers of the High Court for quashing the criminal complaint and summoning order. It has to be noticed that though initially the Trial Magistrate had refused to file any complaint under Section 340 Cr.P.C. but when that order was challenged before the Court of Sessions, the revision petition was accepted and order was set aside and the Trial Magistrate was directed to pass fresh order and she accepted the application and decided to file the complaint. The complaint was

accordingly filed. The accused appeared in person. There is no reason to set aside the complaint and the summoning order. The accused had remedy of filing the revision petition against summoning order. Even otherwise, the pleas in that regard can be raised by the petitioner before the trial Court at any appropriate time. However, as the things stand, no ground for quashing of criminal complaint and summoning order is made out.

Learned counsel for the petitioner had referred to several judgments in support of his contentions i.e. **Tarun Vs. Manoj Kumar in CRM-M-8928-2010 decided on 13.10.2011, Parveen Kumar Vs. Anju & Anr. 2020 (1) RCR (Criminal) 387, Sasikala Pushpa & Ors. Vs. State of Tamil Nadu, 2019 (5) RCR (Criminal) 798, Sharad Pawar Vs. Jagmohan Dalmiya & Ors. 2010 (15) SCC 290.** But those are not applicable due to different facts and circumstances and the context in which such observations had been made. Finding no merit in the instant petition, the same stands dismissed.

06.03.2020

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**(H.S. MADAAN)
JUDGE**

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