

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CRM-M-31802-2020

Date of Decision:24.11.2020

Rajanbir Singh

.....Petitioner

Versus

Ranjit Kaur

.....Respondent

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

**Present: Mr. Vikas Mohan Gupta, Advocate,
for the petitioner.**

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Petitioner has filed the present petition under Section 482 Cr.P.C., for quashing of criminal complaint No.59 dated 11.12.2010 (Annexure P-1) filed by the complainant-respondent, titled as “Ranjit Kaur versus Bhagwan Singh and others” under Sections 323, 324, 354, 148, 149 IPC pending before learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala.

Challenge has also been laid to the order dated 08.09.2014 (Annexure P-2), whereby the petitioner was summoned to face trial in the aforesaid complaint under Sections 323, 324, 148, 149 IPC and the order dated 18.05.2016(Annexure P-3), whereby the petitioner has been declared as a proclaimed person by the learned Magistrate.

Learned counsel for the petitioner has argued that the matter is settled between the parties, therefore, the private complaint filed by complainant deserves to be quashed on the basis of compromise. He submits that when the summoning order was issued by the learned Magistrate, the petitioner was not in India. He refers to the notice dated 15.06.2015(Annexure P-14) issued by learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi, to contend that the petitioner was never served in the case and one copy of the proclamation warrant was affixed at the conspicuous part of the house of the accused. Since the petitioner was never served in the case, he has filed the present petition impugning the PO order dated 18.05.2016(Annexure P-3) as well. He further submits that now the matter has been compromised between the parties and nothing survives in the present petition. The petitioner is a citizen of Canada and on account of COVID-19 pandemic, it is difficult for him to travel all the way from Canada to India to face trial in the case. The petitioner has complete faith in judicial system of the country and never wanted to avoid such proceedings. Since the matter has been compromised between the parties, it would be too harsh for the petitioner to come all the way from Canada to India to make statement in support of compromise.

At this stage, Mr. Varun Mittal, Advocate, has put in appearance and accepts notice on behalf of the respondent and submits that the matter has been compromised between the parties and he has no objection, in case, the present complaint as well as other consequential proceedings are quashed by this Court, without insisting presence of the petitioner.

Heard learned counsel for the parties.

It is on the basis of a private complaint filed by the respondent, present criminal proceedings were put in motion. The petitioner was not served in the case personally, but as per the Head Constable, who allegedly served the summons, has reported that he visited the spot on 12.06.2015 and has duly effected the proclamation warrant against the petitioner and copy of such proclamation warrant was affixed by him on the conspicuous part of the house of the petitioner-accused. Since the petitioner had left India on 31.12.2010 and the summoning order was passed on 08.09.2014, it cannot be termed as complete service, unless it has come to the knowledge of the petitioner or he is served in the case.

Petitioner is settled in Canada and is not residing in India. The summons in the present case were served on petitioner on his Indian address and not on his Canadian address. This fact is not controverted by learned counsel for the complainant as well. In the absence of any valid service on petitioner on the given address, the declaration of the petitioner as PO is not in accordance with the provisions of Sections 82/83 of Cr.P.C. In view of the above, this Court finds that pendency of the criminal proceedings is not liable to sustain in law. Be that as it may, it being a private complaint between the parties and since the matter has been compromised between the parties, the present petition is allowed.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*** and as the parties have settled the disputes, the present criminal complaint No.59 dated 11.12.2010(Annexure P-1) under Sections

323, 324, 148, 149 IPC filed by the respondent and all other consequential proceedings arising therefrom are hereby quashed qua the petitioner on the ground that the petitioner was never served in the case and the matter has been compromised between the parties vide compromise-deed dated 19.06.2020(Annexure P-4). However, that would be subject to payment of costs of Rs.1,00,000/-(Rupees One Lakh) to be deposited by the petitioner with the Bar Association of this Court within a period of one month from today.

November 24, 2020
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No