

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

CRM M 40974 of 2015 (O&M)

Date of Decision: January 12, 2021

Asha ThakurPetitioner

Versus

U.T. Chandigarh and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Ranjan Lakhanpal, Advocate
for the petitioner.

Ms. Ashima Mor, Addl. Public Prosecutor U.T.
Chandigarh for the respondent/State.

FATEH DEEP SINGH, J. (Oral)

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

This petition under Section 482 Cr.P.C. has come about by the petitioner Asha Thakur then complainant who had initially filed a complaint in a Court at Chandigarh under Sections 494 and 120-B IPC pertaining to Police Station Sector

19 Chandigarh. When nothing tangible transpired led to the filing of the present petition. In her prayer, the petitioner seeks registration of criminal case against SHO Ms. Poonam Dilawari and other police officials of Police Station Sector 19 including her alleged husband Tejvir Singh and his unnamed associates.

Heard Mr. Ranjan Lakhanpal, Advocate for the petitioner and Ms. Ashima Mor, Addl. Public Prosecutor U.T. Chandigarh for the respondent/State and perused the records.

The complainant filed the complaint on 02.09.2014 attributing acts of malafide conduct against the police officials as well as the husband in which an inquiry by a senior functionary of police too was got conducted. The allegation in the complaint is that the complainant claims to have married Tejvir Singh on 23.07.96 at Delhi after courtship of three years in Luxmi Narayan Temple New Delhi. Further alleging that the accused-husband Tejvir Singh had committed bigamy as he was already married with Anupama out of which he had children. The concerned Court summoned some of the

accused in the complaint vide order dated 20.10.2014 and thereafter the husband Tejvir Singh went in for revision before the Court of learned Sessions Judge who remanded the case back for compliance of provisions of Section 202 Cr.P.C. vide orders dated 03.10.2015 and, thus, the impugned order for holding of inquiry which was got conducted by SHO of police Station Sector 19 Chandigarh. It is on this score the allegations have come about on the imputation that the inquiry was conducted by joining the complainant as well as accused. When the latter had no role to play at that point of time and, therefore, could not participate in such proceedings. The allegations are that it was an outcome of connivance this manipulation had come about whereby the counsel of Tejvir Singh prepared the report of findings of inquiry under Section 202 Cr.P.C. and to which the police had relied upon and hence the complaint.

The contentions of Ms. Ashima Mor, Addl. Public Prosecutor U.T. Chandigarh for the respondent/State that on the

allegations by Asha Thakur registration of case by way of FIR No. 127 dated 04.07.2004 under Sections 417, 420, 376, 342, 506, 493, 494 and 496 IPC with Police Station Kurukeshtra came about and in which the persons named as accused were exonerated and that subsequently at a belated stage on contradictory stand a belated private complaint had come about by way of revenge and vengeance. The arguments so advanced by the respondent side have sought to be controverted with much vehemence by Mr. Ranjan Lakhanpal, counsel for the petitioner on the premise that the police did not carry on with their functions and duties and by associating the accused had acted contrary to the provisions of Section 202 Cr.P.C. and therefore entails their summoning for such an illegal act.

Appreciating the submissions it needs to be kept in mind that the police report in an inquiry need not be relied upon by the Magistrate in arriving at his findings and therefore such a police report is not a basic criteria and what the Magistrate has to do upon filing of report under Section 202 Cr.P.C. is to

independently apply his mind to the material on the records and is not to be guided by what the police is trying to bring about reliance placed on **Minu Kumari Vs. The State of Bihar (2006)**

VOL. IV SCC 359. It needs to be appreciated that the allegations of the complaint and the FIR lodged in a police station at Kurukshetra are harboring on same set of accusations, allegations and occurrences and, therefore, a second criminal case/prosecution on the same allegations, facts, cause of action and occurrence is clearly barred by principle of double jeopardy besides being in violation of Article 20 of the Constitution. More so, it is the own stand of the complainant revisionist that she remained in a relationship with Tejvir Singh from 23rd July 1996 to 30th September 2001 for more than 02 years (as per Annexure R-3) and that on the pretext of entering into a wedlock Tejvir Singh had been defiling her. Admittedly, the complainant Asha Thakur is a major grown up lady of normal understanding and having volunteered into this relationship over a long period of time without there being any substantial

evidence brought on the record of promise to marry by Tejvir Singh cannot claim or that she married Tejvir Singh and that on the allegations of bigamy vide judgment and order dated 14.11.2005 of Additional Sessions Judge 1st Track Court acquitted Tejvir Singh (Annexure R-4). In her stand throughout in various proceedings some time the complainant Asha Thakur claims that she was married to Tejvir Singh on 23.07.1996 at Luxmi Narayan Mandir Delhi and claims that Tejvir Singh on 04.11.96 married Anupama from which marriage he has two children but thereafter has gone back on from her stand and claimed that Tejvir Singh married Asha Thakur on 30.08.2005 at Chandigarh (Annexure R-4) regarding which the criminal case was got registered at Kurukshetra in which the alleged husband stands acquitted. More so, Asha Thakur had filed a criminal revision challenging acquittal of Tejvir Singh in which she claimed that there was no marriage between them. Furthermore, in a divorce petition between two of them Asha Thakur has taken a stand in her reply that no marriage took place between

her and Tejvir Singh on 23.07.1996 at Luxmi Narayan Temple Delhi rather they were married on 30.08.2005 at Chandigarh, which is so in her affidavit Annexure R-8.

In the light of this contradictory stand which Asha Thakur has tried to set up in various proceedings including her complaint under Section 156(3) Cr.P.C. (Annexure R-12) she has specifically taken the stand that marriage between her and Tejvir Singh was a sham marriage and further in her appeal R-13 there is a categorical stand of Asha Thakur that Tejvir Singh was already married and having two children from his earlier wife Anupama when he married her and in view of which during inquiry under Section 202 Cr.P.C. the police had tried to check the claim and counter claim of the two sides so as to arrive at the truth and therefore to the mind of this Court there is nothing to term as illegal in submitting a report and which does not form the pillar of the findings of the learned Magistrate.

From the close perusal of each and every averment and evidence nothing is suggestive that counsel for Tejvir Singh

had prepared this report on behalf of the police or the police was instrumental in getting the same changed from the counsel of Tejvir Singh. It is merely on premise that a fraud has been committed which remains unsubstantiated. The complaint was filed by Asha Thakur and what has come about as simple misdemeanour which has been adequately dealt by SSP Chandigarh holding that ASI Babu Lal and MHC Pankaj Kumar on the ground of mere unsubstantiated hearsay whereby MHC Pankaj Kumar had stated that report was prepared with help of advocate of Tejvir Singh. These allegations have come about when the same is not proved by any tangible substantial evidence. Merely because unsigned report is claimed to be made available to the complainant Asha Thakur does not fall within the ambit of criminal act. For any such misdemeanour regular departmental inquiry had already been instituted against the police officials and therefore no cause to file a criminal complaint arises. Moreover, clear perusal of the proceedings no criminal offence is made out necessitating intervention of this

Court. The petition being without any legal basis does not impel this Court to exercise its extra ordinary jurisdiction under Section 482 Cr.P.C.

In the light of what has been detailed and discussed above, there is no merit in the instant petition and the same stands dismissed.

January 12, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No