

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(271)

CRM-M-43252-2020

Date of decision: - 16.05.2022

Hardhiraj Kaur and another

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Kanav Bansal, Advocate, for the petitioners.

Mr. Hitten Nehra, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.10 dated 03.11.2020, registered under Sections 420 and 34 IPC, at Police Station PS NRI, District Moga.

Learned counsel for the petitioners has submitted that in the present case, the dispute involved is a matrimonial dispute as petitioner No.1 is the wife of respondent No.2 and petitioner No.2 is father-in-law of respondent No.2. It is further submitted that the amount of Rs.11 lakhs, which had been deposited by respondent No.2 and his family in the account of petitioner No.1, was for the purpose of meeting the expenses of petitioner No.1 while she was in Canada. It is further submitted that it was the respondent No.2 who did not want to go to Canada and on the basis of the said facts, it is submitted that no offence under Section 420/34 IPC is made out against the present petitioners.

Learned State counsel, on the other hand, has opposed the present petition for quashing of FIR and has submitted that in the present case specific allegations have been made against the petitioners in the FIR so as to constitute an offence under Section 420/34 IPC . It is further submitted that petitioner No.1 is not in India and thus, can not maintain the present petition filed under Section 482 Cr.P.C. It is argued that the report under Section 173 Cr.P.C. has already been submitted and the same has not been annexed with the present petition, thus, on the basis of said account also, the present petition deserves to be dismissed. It is argued that disputed questions of fact are sought to be raised by learned counsel for the petitioners, which can be considered & determined only during the course of the trial and can not become the basis of entertaining a petition under Section 482 Cr.P.C. It is further submitted that petitioner No.1 and her family members, as per the allegations in the FIR, have duped respondent No.2 of an amount of Rs.25-27 lakhs and they have not even been responding to the calls of respondent No.2 and petitioner No.1 had gone to Canada in the year 2018 and since the last four years she has not returned to meet her husband, which *prima facie* shows that the only intention of the petitioners was to cheat respondent No.2.

This Court has heard learned counsel for the parties and has gone through the paper-book.

A perusal of the FIR would show that in the complaint, respondent No.2 had made specific allegations against the present petitioners. It is alleged that petitioners, along with other family members, had told respondent No.2 and his family members that if they are able to

pay Rs.24 lakhs, petitioner No.1 would perform marriage with respondent No.2 and take him along to Canada and it was then settled that petitioner No.1 would perform marriage with respondent No.2 and leave for Canada on study basis and would then call respondent No.2 to Canada and the entire expenses for the same were stated to be of an amount of Rs.24 lakhs. It is stated that on 22.4.2018, Shagun ceremony of petitioner No.1 and respondent No.2 was performed at Baba Damu Shah Dargah and at that time, respondent No.2 and his family had given a sum of Rs.2 lakhs in cash to petitioner No.2 and thereafter, the date of marriage was fixed as 04.05.2018. It is also alleged that subsequently the family members of respondent No.2 had deposited a sum of Rs.11 lakhs on 02.5.2018 i.e. two days prior to marriage in the Bank account of petitioner No. 1 i.e., in Account No.65134854606, maintained in State Bank of Patiala (now State Bank of India), B.O. Jalalabad (East) by way of RTGS and after the said amount had been received by the petitioners, the marriage took place between petitioner No.1 and respondent No.2 on 04.05.2018 and a sum of about Rs.5 lakhs was spent by the family members of respondent No.2 on the marriage and petitioner No.1 was given a gold necklace weighing about three tolas, four gold bangles weighing about 4 tolas & one gold ring weighing about ½ tola. It is further alleged that after about three months after the marriage, petitioner No.1 left for Canada on 24.08.2018 and at that time, respondent No.2 gave a sum of Rs.2,65,000/- so that petitioner No.1 could get an equivalent amount of 5000 Dollars @ Rs.53/- per Dollar, in order to meet her expenses in Canada. It is alleged that all the accused persons had hatched a conspiracy to trap respondent No.2 &

his family members and accused had even obtained a sum of Rs.3 lakhs from respondent No.2 in order to meet their domestic needs and whenever respondent No.2 asked petitioner No.1 about his migration, petitioner No.1 kept on putting off the matter on one pretext or the other, although, all that petitioner No.1 was supposed to do was just to apply for a letter from her College and call respondent No.2 to Canada, but whenever respondent No.2 put up the matter, petitioner No.1 started putting it off on one pretext or another, rather kept on demanding more money from respondent No.2 and respondent No.2 had sent a sum of Rs.2 lakhs to petitioner No.1 and thus, had paid a total sum of Rs. 25-27 lakhs to the accused. It was also alleged that when respondent No.2 further pressed his request that petitioner No.1 should get him to Canada, then, petitioner No.1 stopped making phone calls to respondent No.2 after March, 2019 and also blocked the mobile numbers of respondent No.2 and his family members and instead of calling respondent No.2 to Canada, petitioner No.1 called her sister (co-accused) to Canada and has not conducted any documentation proceeding for calling respondent No.2 to Canada and has thus, cheated respondent No.2 and his family members. It is also alleged that family members of petitioner No.1 are looking for some rich family in India in order to finalize a matrimonial match for petitioner No.1 and when respondent No.2 and his family members convened a Panchayat, then, family members of petitioner No.1 flatly refused to send respondent No.2 abroad and threatened to implicate them in a false case and respondent No.2 was threatened to be killed. It is alleged that the petitioners, along with other family members, have committed fraud

against respondent No.2 and his family members.

Prima facie, the offences under Sections 420/34 IPC are made out in the present case, more so, against the present petitioners. Petitioner No.1 is not in India and although, the report under Section 173 Cr.P.C. has already been submitted, but however, the petitioners have chosen not to place on record the said report. The arguments raised by learned counsel for the petitioners are all disputed questions of fact, which at best can be considered at the time of the trial. It is a settled position of law that a petition under Section 482 Cr.P.C. filed for quashing of an FIR cannot be entertained on pleas which are founded on disputed questions of fact. . The argument of the petitioners to the effect that it was respondent No.2, who did not want to go Canada, is contrary to the specific allegations levelled by respondent No.2 in the FIR. Moreover, nothing has been produced on record, which could even remotely show that petitioner No.1 had made any effort to enable respondent No.2 to go abroad and in fact, it is stated that petitioner No.1 has never even returned back to India so as to meet her husband since the time she had left and thus, *prima facie*, this Court is of the opinion that in the present case, petitioner No.1 had married respondent No.2 only for meeting her expenses while she is residing abroad and has cheated respondent No.2 and his family members.

Keeping in view the above-said facts and circumstances, no ground is made out for quashing the present proceedings and thus, the present petition is dismissed.

However, nothing stated above shall be construed as a final

expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present petition.

May 16, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes