

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

126

CRM-M-2183-2021 (O&M)

Date of order: 16.10.2023

Jatinder Singh & Another

.....Petitioner(s)

Vs.

Komalpreet Kaur

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioners.

Mr. A.S. Manaise, Advocate
for the respondent.

Nidhi Gupta, J.

The prayer in this petition filed under Section 482 Cr.P.C.

is for quashing of complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 read with Sections 18, 19, 20, 21 and 22 of the Act bearing No.COMA/215/2019 dated 28.11.2019 (Annexure P2) and consequential proceedings arising therefrom.

2. Learned counsel for the petitioners inter alia submits that the petitioners before this Court are the parents-in-law of the respondent/complainant. Marriage of respondent was solemnized with son of the petitioners namely Gurjot Singh, on 18.12.2018. Son of the petitioners was a resident of Australia since 2014. Accordingly, upon marriage the husband of the respondent moved the Visa application of the respondent for Australia. However, as the same was taking time, the respondent moved to her parental home on 24.11.2019. Immediately thereafter, without the knowledge of the petitioners, the respondent

moved the present complaint dated 28.11.2019 under the provisions of Domestic Violence Act, 2005 (Annexure P2), against the petitioners. Then the respondent moved a police complaint dated 02.12.2019 against the petitioners on the ground that the petitioners had promised that she would be taken to Australia within one month of the marriage but that had not come true. It is stated that in the said complaint dated 02.12.2019, a compromise was arrived at between the parties on 12.12.2019 (Annexure P1). Thereafter, the respondent was granted visa for Australia and she has been residing happily in Australia with her husband since 15.03.2020. It is further submitted that till date no child was born out of this wedlock.

3. Learned counsel argues that at the time of entering into above said compromise with the respondent, the petitioners were not aware of the present complaint dated 28.11.2019 (Annexure P2). It is stated that it is only when notice was issued vide order dated 09.12.2019 (Annexure P3), which was received by the petitioners on 29.04.2020 (Annexure P4), that they got knowledge of the present complaint. However, in the meantime, the respondent/complainant was already living in Australia and now the present complaint is being pursued by her parents, which is sheer abuse of process of law. It is further submitted that the allegations made in the present complaint are absolutely false and fabricated. It is therefore, prayed that the present complaint be quashed in view of above said facts.

4. Learned counsel for the respondent opposes the prayer made on behalf of the petitioners and submits that it is an apprehension in

the mind of the respondent that the petitioners would interfere in the married life of the respondent. It is submitted that Co-ordinate Bench of this Court had appreciated this apprehension in the mind of the respondent and accordingly, while passing order dated 07.04.2022, the petitioner had undertaken to furnish an affidavit *“to indicate that they will not interfere in the matrimonial life of the respondent and their son”*. It is submitted that despite undertaking before this Court, such an affidavit has not been filed by the petitioners till date.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel for the parties.

7. Learned counsel for the parties are ad idem that the respondent/complainant is residing in Australia since 15.03.2020; and that after filing of the present complaint dated 28.11.2019 (Annexure P2), compromise dated 12.12.2019 (Annexure P1) was also entered into between the parties. The terms and conditions of the said compromise are as follows:-

“1. That girl Komalpreet Kaur talks with her husband namely Gurjot Singh son of Jatinder Singh resident of Machhiwara, gurudwara Shri Charan Kanwal Sahib everyday at Australia. That Gurjot Singh has promised that he will take his wife Komalpreet Kaur to Australia within a period of 1-2 months. The responsibility of the same has been undertaken by his father namely Jatinder Singh and his mother Snehdeep Kaur.

2. That Jatinder Singh has taken a house on rent and whenever they will ever shift to a new place then they will inform the parents of Komalpreet Kaur about their new address.

3. *That the girl Komalpreet Kaur will stay with her parents for as long as she likes. As and when any document will be required by the Embassy then her in-laws family may take her along-with them and the entire expenses of sending her abroad will be borne by her in-laws family.*

4. *That for any reason if the VISA of girl namely Komalpreet Kaur is not approved then the boy Gurjot Singh will come back to India and will live with his wife in India.*

5. *That till the time the girl Komalpreet Kaur does not travel to Australia the parents-in-law of Komalpreet Kaur will also not travel to Australia.*

6. *That the boy Gurjot Singh will give monthly expenses to girl Komalpreet Kaur and in case if the boy does not give the money for expenses then the same shall be borne by parents of Gurjot Singh”.*

8. It has further been admitted by learned counsel for the respondent that the respondent is residing happily with the son of the petitioners in Australia and there is no violation of terms and conditions of the above said compromise.

9. In these circumstances, reference may be made to the judgment of the Hon’ble Supreme Court in “**Ruchi Agarwal Vs. Amit Kumar Agrawal**” Law Finder Doc ID # 78949, wherein the Hon’ble Supreme Court had quashed the criminal proceedings wherein the wife had refused to withdraw the proceedings after effecting compromise. Reference may also be made to judgment of Hon’ble Supreme Court in “**State of Haryana Vs. Ch. Bhajan Lal**” reported in 1991(1) Recent Criminal Reports Page 383, wherein following principles were laid down for the exercise of powers under Section 482 Cr.P.C.:-

“1. Where the allegations made in the First Information or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacies redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on

the accused and with a view to spite him due to private and personal grudge”.

(Emphasis supplied)

10. It is my considered opinion that in view of the above admitted facts, and the legal position as discussed above, there is no purpose in continuing the Damocles’ sword hanging over the aged parents-in-law of the respondent/complainant. In any event, the only argument raised on behalf of the respondent is that there is ‘*an apprehension*’ in the mind of the respondent that the petitioners may interfere in the married life of the respondent. Even on a direct Court query, learned counsel for the respondent has been unable to cite even one instance or manner in which the petitioners may have “interfered” in the matrimonial life of the respondent. Thus, the apprehension in the mind of the respondent is rendered especially imaginative in view of the fact that she is residing almost 5000 miles away in Australia. As such, there is no occasion for the petitioners to cause any harassment to the respondent. In view of the above facts, present petition is **allowed** and complaint bearing No.COMA/215/2019 dated 28.11.2019 (Annexure P2) under Section 12 of Protection of Women from Domestic Violence Act, 2005 read with Sections 18, 19, 20, 21 and 22 of the Act and consequential proceedings arising therefrom, are quashed qua the petitioners.

11. Pending application(s) if any also stand(s) disposed of.

16.10.2023

Sunena

(Nidhi Gupta)

Judge

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