

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

204

CRM-M-23904-2016 (O&M)

Date of Decision : 20.02.2023

Lakhvir Singh and others

..... Petitioners

Versus

Dilraj Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Sahil Soi. Advocate
for the petitioners.

Mr. H.C.Arora, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Section 482 Cr.P.C. are seeking quashing of complaint No.02/2015 dated 14.01.2015 under Sections 498-A, 406 and 34 IPC and summoning order dated 18.11.2015.

2. The brief facts emerging from the record are that the marriage of petitioner No.3 and respondent No.2 was solemnized on 07.01.2011 as per Sikh rites and ceremonies. After one month of marriage, respondent No.2 left for Canada. She could not arrange visa for petitioner No.3 and as per family settlement, it was responsibility of respondent No.2 to make sure spouse visa for petitioner No.3, however, she could not get. Petitioner No.3, however, succeeded to get visa and reached Canada where respondent No.2 deserted him on 26.12.2013 and started living separately. The petitioner No.3 preferred a petition before the Supreme Court of British Columbia seeking divorce and the Court vide order dated 09.10.2015

ordered to dissolve marriage and passed a decree of divorce. The decree of
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divorce was passed in Canada without any order of maintenance or return of articles because respondent did not make any claim towards maintenance or articles.

3. The respondent preferred a complaint with Police Station NRI, Moga alleging the commission of offence by petitioners punishable under Section 498-A and 406 of IPC. The police thoroughly investigated the matter and vide its enquiry report dated 27.02.2014 came to a conclusion that there is no substance in the complaint. The report of the Investigating Officer was finally accepted by AIG, NRI, Women Wing, Jalandhar.

4. The respondents preferred a complaint under Sections 406 and 498-A of IPC before trial Court which vide impugned summoning order dated 18.11.2015 summoned the petitioners i.e. husband of the complainant as well as old age parents.

5. Learned counsel for the petitioners *inter alia* contends that marriage was no doubt solemnized in India, however, respondent after one month of marriage left for Canada and at present, she is staying in Canada. The petitioner No.3 could not travel to Canada because respondent did not make sincere efforts to get visa for him, however, petitioner No.3 at his own level arranged visa and reached Canada. On account of attitude of the respondent No.2, the petitioner No.3 had to file divorce petition which respondent did not contest and accordingly, decree of divorce was passed. The respondent has got re-married. The police authorities did not find any substance in the allegation of the respondent, however, trial Court treating allegations of the respondent as gospel truth has summoned the petitioners.

6. Learned counsel for the respondents does not dispute the fact that the complaint filed by them before police authorities was consigned to

record room and the police did not find any substance in their complaint. He also does not dispute the fact that respondent has performed 2nd marriage, however, he contended that the impugned order passed by trial Court is well reasoned, thus, present petition needs to be dismissed.

7. I have heard the arguments of learned counsel for both the parties and perused the record.

8. The conceded position emerging from record is that the marriage was solemnised on 07.01.2011 and respondent No.2 at that point of time was having permanent residency of Canada and petitioner No.3 was neither having visa nor permanent residency of Canada. The petitioner No.3 filed a divorce petition in the Court at Canada. The decree of divorce stands passed and respondent No.2 has solemnised 2nd marriage. The police authorities have found no substance in the allegation of the respondent.

9. From the perusal of impugned complaint and summoning order, it transpires that there are vague and general allegations against the petitioners. The petitioners have been summoned under Section 498-A of IPC and they have not been summoned under Section 406 of IPC. This Court has found that in every complaint, similar set of allegations are made either before Court or before the police authorities. Petitioners No.1 and 2 are old age parents who are staying in India and respondent No.2 at the time of marriage was holding PR of Canada and she left for Canada after one month from the date of marriage. Since then, she is staying in Canada. Petitioners No.1 and 2 had stayed with respondent No.2 for very few days because it is well known fact that in India, the initial one month is spent in going and coming back to matrimonial home. It is very strange that many persons are lodging complaint against old age parents of the boy who are

staying in India whereas boy as well as girl are staying outside the country. It is unfortunate that if boy and girl are happily staying outside the country, they do not care of old age parents. It has been found that many times, they do not come for their treatment and sometimes they do not come on the day of death of their parents. Dead body has to wait for days for cremation. The funeral formalities are performed by neighbourers or relatives and children come to lit the pyre. If they are happily staying, they are least bothered about their parents, however, in case of any dispute, they implicate their old age parents. This practice needs to be deprecated. The police authorities needs to take care of this fact. This Court has also noticed that NRI Commission in a mechanical manner is asking police authorities to register FIR against old age persons who many times are staying in villages without medical facilities and at the fag end of their life, they are asked to go behind the bars. This is against our Indian ethics and culture. In this case also, petitioners No.1 and 2 are old age parents of petitioner No.3, who are staying in India. It is fortunate in the present case that the police has found them innocent, however, the trial Court in a mechanical manner has summoned all the petitioners.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly allowed.

Complaint case No.02/2015 dated 14.01.2015 under Sections 498-A, 406 and 34 IPC and the summoning order dated 18.11.2015 are hereby quashed qua the petitioners.

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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>