

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1671-2021 (O&M)

Reserved On.: 16.01.2024

Pronounced On: 19.01.2024

Gurtej Singh & Another

.....Petitioners

Vs.

State of Punjab & Another

.....Respondents

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Ankur Malik &
Mr. Zenith Dogra, Advocates
for the petitioners.

Mr. Amit Rana, Senior DAG, Punjab.

Mr. Arihant Jain, Advocate
for respondent No.2.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., petitioner prays for quashing FIR No.80 dated 17.03.2020 registered at Police Station Sadar Dhuri, District Sangrur under Sections 420, 120-B of the IPC and all the subsequent proceedings arising therefrom.

2. FIR was lodged on the complaint made by respondent No.2- Amandeep Singh, as per which his marriage with petitioner No.2- Rajwinder Kaur was arranged with mutual understanding that petitioner No.2 will go abroad after passing IELTS on study basis and that respondent No.2 will follow her thereafter and that he (respondent No.2) will bear all the expenses. Marriage was solemnized on 12.12.2014. After the marriage, petitioner No.2- Rajwinder Kaur took coaching, cleared necessary examinations and then

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went to Australia on study VISA. Complainant bore all the expenses of coaching, tickets, training etc. besides the living expenses of petitioner No.2- Rajwinder Kaur in Australia. However, petitioner No.2 later on stopped talking to him. She demanded an amount of ₹17,00,000/- to be deposited as FD in her account. It was alleged that complainant spent an amount of ₹30,00,000/- but petitioner No.2 stopped talking to her and that her father - petitioner No.1 told the complainant that now he had no relation with the girl. Prayer was made to take action against both the petitioners besides her other family members.

3.1 It is contended by the petitioners that an arranged marriage was performed on 12.12.2014 with mutual understanding that petitioner No.2 will go abroad on study VISA and respondent No.2 follow her thereafter on spouse VISA and all the expenses will be incurred by respondent No.2. At the time of marriage, petitioner No.2 was working as a Nurse in DMC Ludhiana. After marriage, she resumed the said job and started living in rented accommodation with respondent No.2. However, a few days after the marriage, respondent No.2 started taking drinks and drugs and when opposed by petitioner No.2, she was beaten. Her ATM card was with respondent No.2, who used to withdraw all the money earned by petitioner No.2 as Nurse. Petitioner No.2 was harassed but she kept mum to keep her matrimonial home intact.

3.2 In February, 2018 petitioner No.2 went to Australia for three months course and fee of \$1600 dollar was paid by petitioner No.1, though the amount was shown under the name and account of respondent No.2. It is

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further contended that respondent No.2 never intended to go to Australia, as he wanted to lead a comfortable life in India. Though it was mutually agreed at the time of marriage that respondent No.2 will bear all the expenses of petitioner No.2 but said respondent No.2 never helped petitioner No.2. Petitioners have given details of the transactions made by petitioner No.1 in favour of petitioner No.2 to show the expenses incurred upon her.

3.3 It is further alleged that petitioner No.1, on account of harassment made by respondent No.2 made a complaint against him and as a counter-blast, respondent No.2 filed the complaint against the petitioners. Respectable people of the society got the matter compromised on 03.01.2019, as per which respondent No.2 agreed to bear the expenses of petitioner No.2 and that he will go to Australia on his own and both the parties will withdraw their respective complaints against each other. Instead of abiding by the said compromise, respondent No.2, in order to harass the petitioners had got registered the present FIR.

4. Contending that no offence of cheating is made out, learned counsel for the petitioners prayed for quashing the FIR along with the subsequent proceedings.

5. As per the status report filed by respondent No.1- State, stand taken is that on bare perusal of the FIR and the facts alleged therein, apparently the two petitioners have committed offence under Sections 420 & 120-B of the IPC and so, petition deserves to be quashed.

6.1 Respondent No.2 filed a separate reply. raising preliminary objection to the effect that petitioner No.2 is resident of Australia and so,

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present petition is not maintainable. It is further submitted that no proper authority in favour of petitioner No.1 to file the petition for quashing of the FIR has been produced on behalf of petitioner No.2 and that the alleged General Power of Attorney dated 04.06.2020 is not a genuine document, as it does not bear signature of the Legal Practitioner nor bears the name/address of the witness. It is stated further that respondent No.2- complainant incurred all the expenses of petitioner No.2, sent her to Australia and she failed to keep her promise for taking respondent No.2 to Australia and thus, cheating has been committed.

6.2 Regarding the compromise (Annexure P-5) relied by the petitioners, it is contended that it was obtained by putting undue pressure upon the respondent and besides the said compromise does not bear the signature of petitioner No.2- Rajwinder Kaur and that there is no valid document showing that any authority was given by her to petitioner No.1 to compromise the matter on her behalf. It is also submitted that as per the enquiry conducted by the police, petitioners were found to have played a fraud of ₹30,00,000/- on the pretext of taking him to Australia. Prayer is made for dismissal of the petition.

7. I have considered submissions of both the sides and have perused the record.

8. At the outset, it is noticed by this Court that though petitioner No.2 and respondent No.2 performed marriage way back on 12.12.2014 but the FIR has been lodged in March, 2020 i.e., after a delay of more than five years. It further emerges that petitioner No.2 went to Australia for three

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months course for the first time in February, 2018 i.e., after more than 03 years of the marriage. Even if it be assumed that all the expenses for coaching, training, tickets or expenses required for living in Australia were incurred by the complainant, i.e., respondent No.2, the same do not *prima facie* make out a case of cheating, as the amount was spent by a husband upon her wife.

9. Even if it be assumed that the expenses were incurred by respondent No.2 on the assurance that after petitioner No.2 reaches Australia, she will apply for spouse VISA for respondent No.2 and that petitioner No.2 did not keep the said promise, still no offence is made out, having regard to the compromise Annexure P-5 dated 03.01.2019, which was effected between petitioner No.1 i.e., father of petitioner No.2; and respondent No.2.

10. As per the aforesaid compromise dated 03.01.2019 (Annexure P-5), complaints were made by Amandeep Singh (respondent No.2) and Gurtej Singh (petitioner No.1) against each other; that dispute was settled between the parties. The Panchayati compromise dated 03.01.2019 (Annexure P-5) reads as under:-

*“We below mentioned persons verifies that complaints filed by Amandeep Singh son of Pardeep Singh R/o Bhanbhora and Gurtej Singh son of Ajit Singh R/o Bahir Sahib Tehsil Patran Distt. Patiala which were given by both of them against each other, we have settled the dispute between both the parties. The daughter Rajwinder Kaur of Gurtej Singh wife of Amandeep Singh above is living Australia and Amandeep Singh is living at his native village Bhanbhora. **There was a misunderstanding between Rajwinder Kaur and Amandeep Singh and now both are being satisfied that Rajwinder Kaur will live in Australia and will not return back to India. Expenses of Rajwinder Kaur till date and expenses of Rs.3 lacs for two months more will be paid by Amandeep Singh. If Amandeep Singh will not go to Australia then he will pay Rs.50,000/- per month for expenses. All the***

documents regarding PR of Amandeep Singh, Rajwinder Kaur will be bound to submit the same to Dharminder Singh son of Darshan Singh R/o Sagtwala at present Australia. Amandeep Singh will be bound to go to Australia as per his source. All responsibilities of PR file of Rajwinder Kaur and Amandeep Singh, Dharminder Singh will be responsible. Both the parties will be bound by the compromise. Both the parties are agreed with the compromise and the same has been entered with their own free will and without any pressure from anybody. Now both the parties do not want to take any action against each other. Gurtej Singh will be bound to withdraw the complaint which was fled at Patiala. Both the parties will be bound to withdraw their complaint filed against each other. A compromise is being accepted.”

11. As it will be evident from the contents of the aforesaid compromise, there was misunderstanding between Rajwinder Kaur i.e., petitioner No.2; and Amandeep Singh i.e., respondent No.2. Both the parties were now satisfied that Rajwinder Kaur was living in Australia and will not return back. It was further agreed that expenses of Rajwinder Kaur till date and expenses of ₹3,00,000/- for two more months will be borne by Amandeep Singh and that if he does not go to Australia, then he will pay ₹50,000/- per month for expenses. It was further agreed that all the documents regarding PR of Amandeep Singh i.e., respondent No.2 shall be submitted by Rajwinder Kaur to one Dharmendra Singh, presently at Australia and that Amandeep Singh will be bound to go to Australia as per his own source and that all responsibilities of the PR file of Rajwinder Kaur and Amandeep Singh shall be that of Dharmendra Singh and that both parties will be bound by this compromise.

12. Respondent No.2- complainant has tried to wriggle out all the aforesaid compromise on the pretext that it is not signed by petitioner No.2-

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Rajwinder Kaur. However, this Court does not find any merit in the objection of respondent No.2 in this regard. Since petitioner No.2 is not a signatory to this Panchayati compromise, she may contend that she is not bound by the same, but respondent No.2- complainant being the signatory to this compromise executed between him and the father of Rajwinder Kaur, is bound by the terms thereof.

13. It is further to be noted that in the FIR (Annexure P-6) lodged on 17.03.2020 i.e., after effecting of the compromise dated 03.01.2019, respondent No.2- complainant did not even whisper anything about the aforesaid compromise.

14. Having regard to all the aforesaid facts and circumstances, this Court is of the considered view that continuation of any proceedings arising out of the FIR will be miscarriage of justice. Even if the contents of the FIR are considered in its entirety, *prima facie* no case of cheating is made out, particularly in the light of compromise dated 03.01.2019 (Annexure P-5), execution of which has not been denied by respondent No.2.

15. Consequently, FIR No.80 dated 17.03.2020 registered at Police Station Sadar Dhuri, District Sangrur under Sections 420, 120-B of the IPC and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.

(DEEPAK GUPTA)
JUDGE

January 19, 2024

Neetika Tuteja

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No