

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11747-2015
Decided on 27.08.2024

Roshan Lal & Anr. ... Petitioners

VS.

State of Punjab & Anr. ... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Aggarwal, Advocate for the petitioners

Mr. Rajiv Verma, DAG Punjab

None for respondent No.2

Sandeep Moudgil, J.

(1). The petitioners have filed the instant petition under Section 482 CrPC for quashing of the FIR No.140 dated 25.10.2007 (Annexure P1) under Section 494/420/506 IPC registered at Police Station Goraya, District Jalandhar and also to set aside the impugned order dated 29.02.2008 (Annexure P8) declaring the petitioners as proclaimed persons.

(2). Notice of motion in this case was issued way back on 10.04.2015 by a Coordinate Bench of this Court and arrest of petitioner No.1 was stayed considering the fact that the dispute has been resolved between petitioners and the complainant.

(3). Thereafter, number of requests was made to counsel for the petitioners to place on record the order showing that petitioner No.1, who had left India in 2003, had actually put in appearance before the trial court in compliance to the order passed by this Court.

(4). Likewise, there has been a consistent non-representation on behalf of the respondent-complainant, Harbans Kaur since 17.10.2022 and prior

thereto, she was being represented by Ms. Manmohan Kaur and Mr. AS Dhaliwal, Advocates. Reply dated 08.04.2019 on behalf of respondent No.2 is on record.

(5). Mr. AS Dhaliwal, Advocate for the respondent No.2 is present in Court. He submits that respondent No.2 has taken the brief of the case along with her and he is not in contact with respondent No.2 anymore. As such, he seeks permission to withdraw his power of attorney to appear on behalf of respondent No.2 in both the above-captioned petitions.

(6). Ordered accordingly.

(7). This Court thus proceeds to decide the case on merits on the basis of averments made in the petition and reply filed by the parties.

(8). At the outset, learned counsel for the petitioners placed reliance on the judgment dated 11.06.2013 passed by JMIC, Phillaur whereby the petitioner-accused persons, namely, Sonia, Banka Ram, Sudesh, Kamlesh Rani, Rakesh Bala, Ram Lal, Neeraj Sood along with Roshan Lal and Santosh Rani have been acquitted from the charges leveled against them on the ground that the prosecution has utterly failed to bring home the guilt of the accused persons. The relevant finding of the trial court is reproduced as under:-

“12. However, in order to bring the guilt of accused into purview of offences, the accused are charged with, this solitary statement of Pw-5 is not suffice to establish that accused persons present in the court had indulged into any sort of conspiracy. Having evaluated the remaining testimony of other witnesses, who have outrightly failed to identify the accused, present in the Court, the testimony of Pw-5 loses its importance. All other witnesses, who the prosecution alleges to have attended the marriage ceremony of accused Roshan Lal (since proclaimed offender) and Sonia, have

turned hostile and have not supported the prosecution case in whatsoever manner. The material witnesses, on the basis of whose statements, the machinery of law was set into motion, has never stepped into witness box. There is no life of prosecution case. The prosecution has utterly failed to bring home the guilt of accused.

13. All the facts discussed above, cast a serious dent in the prosecution story entitling the accused to the benefit of doubt. Thus, giving the benefit of doubt to the accused, they are acquitted from the charges leveled against them. Bail bonds and surety bonds of the accused stands discharged. Case property if any be disposed of after the period of appeal or revision. File be consigned to the record. Same be revived as and when accused Roshan Lal and Santosh Rani are arrested or surrender.”

(9). Learned counsel for the petitioners further submitted that the respondent No.2 preferred an appeal against the judgment of acquittal dated 11.06.2013 on 09.04.2014 and the appellate Court dismissed the application for condonation of delay of 10 months in filing the appeal on the ground the complainant/appellant was residing abroad; she did not step into the witness box; she did not take care of the proceedings pending before the trial court; she did not make any contact with the counsel regarding the FIR lodged by her and for 10 long months, she did not bother to inquire about the status of the FIR.

(10). It is argued that the petitioner No.1 Roshal Lal was married to respondent No.2 on 12.10.1998 at London and thereafter, petitioner No.1 initiated divorce proceedings against respondent No.2 on 27.11.2006, who started blackmailing him and his parents with the false allegation of bigamy and in that regard, respondent No.2 also filed complaint at Jalandhar. It is further stated that the Court at London granted decree of divorce based upon the compromise entered between petitioner No.1 and respondent No.2 but

failed to withdraw the complaint filed by her at Jalandhar and in the meantime, the petitioners were declared proclaimed persons vide impugned order dated 29.02.2008 (Annexure P8) pertinently for the reason the petitioners were settled at London and Austria whereas the proclamation notice was being served at India.

(11). On the other hand, in her reply dated 08.04.2019 filed by respondent No.2, she has narrated the long story of the marriage and post-marital discord between the parties but has conceded to the fact that a compromise has been entered into with the petitioners at London but under pressure. It is further averred that the judgments passed by the courts below is erroneous as the witnesses have been won over by the petitioners by exerting undue influence as the petitioner No.1 used to be serving Punjab Police prior to immigrating.

(12). Heard learned counsel for the parties and gone through the record.

(13). It is an admitted fact that the trial court has dismissed the petition filed by respondent No.2 on the ground that the solitary statement of PW5 Nirmal Singh, Superintendent, Births and Death, Jalandhar is not sufficient to establish that the accused persons had indulged in the conspiracy as they were not identified by the witnesses. It is also undisputed that the respondent No.2 has entered into compromise with petitioners before the Court at London and decided to part their ways.

(14). That being so, since the parties have themselves decided to live peacefully by way of divorce and since respondent No.2 is still residing at London with her son, the petition of bigamy filed against petitioner No.1 by respondent No.2 is nothing but a crude attempt to hoodwink the process of law

as she was not satiated with the compromise with petitioner No.1. The intention of respondent No.2 is self-evident that she wanted to extract money and falsely implicate the petitioners and his family members in false case. Respondent No.2 wantedly gave the address of petitioners showing to be residing at Jalandhar whereas she knew that petitioners are settled abroad.

(15). Moreover, the trial court has acquitted the petitioners of all the charges against the petitioners particularly for the reason that the material witness, namely, the complainant-Harbans Kaur, on the basis of whose statement, the machinery of law was set into motion has never stepped into the witness box. In the appellate proceedings also, the respondent No.2 could not show her bona fide for belatedly filing the appeal. As such, it would not be proper for this Court to let the petitioners to face trial and PO proceedings before the trial court.

(16). In view of the above discussion, this petition is allowed and the FIR No.140 dated 25.10.2007 (Annexure P1) under Section 494/420/506 IPC registered at Police Station Goraya, District Jalandhar is hereby quashed and the impugned order dated 29.02.2008 (Annexure P8) declaring the petitioners as proclaimed persons, is hereby set aside.

(17). Pending applications, if any, also stand disposed of.

27.08.2024

V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No