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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1713-2024 (O&M)
Date of Decision: 01.05.2024

S.C. Vohra

...Appellant

Vs.

Neelam Vohra

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akhilesh Vyas, Advocate
for the appellant.

HARPREET SINGH BRAR, J.(ORAL)

CRM-18633-2024

1. Present application has been filed under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 166 days in filing the instant appeal.
2. For the reasons mentioned in the application, same is allowed and delay of 166 days in filing the instant appeal is condoned.

CRA-S-1713-2024

1. The present appeal is preferred against order dated 12.09.2023 passed by learned Additional Sessions Judge, Chandigarh, whereby application filed by the appellant under Section 340 of the Code of Criminal

Procedure, 1973 (for short 'Cr.P.C.') read with Sections 191, 192, 193, 196, 199, 202 & 209 of the Indian Penal Code, 1860 (for short 'IPC'), was dismissed.

2. Briefly, the facts are that the appellant had filed for divorce bearing petition No.127 of 2021. Thereafter, the respondent filed an application dated 06.01.2022 under Section 24 of the Hindu Marriage Act, 1955 (for short 'HM Act'), duly supporting that same with an affidavit. In the said affidavit, the respondent falsely claimed to have no independent source of income and the appellant is intentionally not maintaining properties from which the respondent can support herself and her daughter. Moreover, the appellant is drawing a pension of Rs.17,785/- per month and the respondent has incorrectly stated the same to be Rs.25,000/- per month in her affidavit.

3. Learned counsel for the appellant, *inter alia*, contends that the respondent is the owner of a house in Sunny Enclave, Sector 125, Mohali, not the appellant, and the same has been rented out. Further, the respondent and her daughter jointly own a house in Sector 37, Chandigarh, where both of them are running a tuition center. Not only does she have a share in their property in Nayagaon and receives 90% of the rent from the same at the rate of Rs.6,000/- per month per room, she has also recently sold a plot measuring 2 kanal 4 marlas in Village Kot Billa, Panchkula, the market price for which is about Rs.50,00,000/-. The respondent has FDRs in Karnataka Bank, Sector 38-D, Chandigarh and is also an income tax payee.

4. He further submits that the Income Tax Returns for the year 2019-20 reflects the income of the respondent as Rs. 3,50,710/- while the same for the year 2020-21 states the income as Rs. 3,76,980/-. The ITRs are annexed with the present petition as Annexure P-4. The ITR pertaining to the daughter reflects taxable income as Rs. 2,59,390/- for the year 2019-20 and Rs. 2,87,390/- for the year 2020-21. The respondent has also filed multiple false complaints against the appellant and compromised the same later admitting misunderstanding which further buttresses the case of the appellant that the respondent has filed a false affidavit merely to harass and defame the appellant.

5. Having heard learned counsel for the appellant and after perusing the record of the record with his able assistance, it transpires that the application under Section 24 of HM Act, filed by the respondent, has not been decided yet. In fact, the appellant is yet to file an affidavit qua his income and assets, as required by ***Rajnish Vs. Neha and another, (2021) 2 SCC 324***. The respondent has merely made obscure allegations against the income and assets of the appellant and the same cannot be treated as gospel truth at her *ipse dixit*. Once, the said affidavit is filed by the appellant, the extent and nature of moveable and immoveable property owned by him shall become clear and the matter of maintenance *pendente lite* under Section 24 of HM Act can be properly adjudicated upon.

6. Furthermore, a two Judge Bench of the Hon’ble Supreme Court in *M/s Bandekar Brothers Private Limited and another Vs. Prasad Vassudev Keni Etc., 2020 AIR SC 4247* has held that the remedy under Section 340 Cr.P.C. serves a greater purpose and was not intended to be employed in order to gratify feelings of vindictiveness and revenge. This Court in *Monika Vs. State of Haryana and another*, in *CRR(F)-462-2024 (O&M)* decided on 02.04.2024 has held that proceedings under Section 340 Cr.P.C. should not be ordinarily invoked in matrimonial cases. The Court must consider the magnitude of the obstruction caused by the alleged offence to administration of justice and its impact, if any, on the outcome of the case. Only when a *prima facie* opinion can be formed regarding initiation of such prosecution being expedient in the interest of justice, that Section 340 Cr.P.C. should be invoked.
7. In view of the facts and circumstances of the case, this Court does not find any perversity or illegality in findings recorded by learned Family Court, which warrants interference. Accordingly, present appeal is dismissed.
8. Pending miscellaneous application(s), if any, shall also stand disposed of.

01.05.2024
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[HARPREET SINGH BRAR]
JUDGE

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