



**240-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-30898-2021
Date of decision: 16.07.2024

Iqbal Singh Khangura

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Soi, Advocate
for the petitioner.

Mr. Paras Talwar, Advocate
for respondent No.2.

Mr. Sandeep Kumar, DAG Punjab

HARPREET SINGH BRAR, J.

1. This is the second petition preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of FIR No. 96 dated 04.07.2012 registered under Sections 406, 498-A of the IPC (Section 420 IPC added later) at Police Station Raikot, District Ludhiana Rural along with all subsequent proceedings arising therefrom.

2. Briefly, the facts as alleged are that marriage between the petitioner and respondent No.2-complainant was solemnized on 08.03.2011 in accordance with Sikh rites and rituals. Respondent No.2 and her family are permanent citizens of Canada and had only come to India for the marriage. The couple only stayed at the Village Tajpur, wherein the matrimonial home of respondent No.2 is located for about one and a half months as respondent No.2 left for Surrey, Canada on 27.04.2011. Thereafter, respondent No.2 applied for spousal visa for the petitioner, who received the same in October 2011 but he did not inform her or her family regarding the same. On 03.11.2012, the



petitioner visited respondent No.2 in Surrey but moved to Toronto soon after, under the guise of meeting relatives. The petitioner refused to join the company of respondent No.2 in spite of her repeated efforts spreading over 3 months. He also demanded \$50,000/- from her in order to buy a house. The petitioner told her to bring along Rs. 30,00,000/- if she wants to go to her matrimonial home in India. On 29.05.2012, respondent No.2 visited her matrimonial home in India but she was not allowed to step in.

3. Learned counsel for the petitioner *inter alia* contends that no preliminary inquiry was conducted as stipulated by the Hon'ble Supreme Court in ***Lalita Kumari Vs. Govt. of U.P. and others, 2013 (4) RCR (Criminal) 979***. No offence as defined under Section 405 IPC is made out against the petitioner as entrustment of dowry articles to the petitioner is not established. Further, the parents of the petitioner have already been discharged vide judgment dated 08.01.2016 passed by the learned Additional Sessions Court, Ludhiana. Pertinently, respondent No.2 has falsely presented herself as a Canadian citizen as in 2011-2012, she held an Indian passport. Finally, the larger part of the offence as alleged by respondent No.2 has occurred in Canada, therefore, in accordance with the ratio of law laid down in ***Harmanpreet Singh Ahluwalia vs. State of Punjab and others (2009) 7 SCC 712***, criminal prosecution cannot be initiated in India.

4. Learned counsel for respondent No.2 submits that the petitioner, in connivance with his parents, has duped respondent No.2 into marrying him in order to secure a Canadian visa. The petitioner refused to join her company once he arrived in Canada and stayed with his relatives instead, in Toronto. He also harassed respondent No.2, demanding money from her to buy a house in Canada and to allow her back into her matrimonial home.



5. Having perused the record, it transpires that this is the second petition preferred under Section 482 Cr.P.C. seeking quashing of the FIR(supra). A perusal of the order dated 07.12.2019 (Annexure P-3) passed by this Court, indicates that the first petition qua quashment was withdrawn with the liberty to take all the pleas before the learned trial Court. It is trite law that the petitioner cannot be allowed to file successive petitions under Section 482 Cr.P.C. when the grounds taken later were available at the first instance. A two Judge bench of the Hon'ble Supreme Court in ***Bhisham Lal Verma vs. State of Uttar Pradesh and another 2023(4) R.C.R.(Criminal) 767***, speaking through Justice Sanjay Kumar, has opined as follows:

“10. In S. Madan Kumar v. K. Arjunan (2006) 1 MWN (Cri) DCC 1 = 2006 SCC Online Mad 94, the Madras High Court observed that a person who invokes Section 482 Cr.P.C., 1973 should honestly come before the Court raising all the pleas available to him at that point of time and he is not supposed to approach the Court with instalment pleas. It was further observed that there may be a change of circumstances during the course of criminal proceedings which would give scope for the person aggrieved to invoke the inherent jurisdiction of the Court, but when he is posted with all the facts and circumstances of a case, he cannot withhold part of it for the purpose of filing yet another petition seeking the same relief.

11. We are in complete agreement with these observations of the Madras High Court. Though it is clear that there can be no blanket rule that a second petition under Section 482 Cr.P.C., 1973 would not lie in any situation and it would depend upon the facts and circumstances of the individual case, it is not open to a person aggrieved to raise one plea after the other, by invoking the jurisdiction of the High Court under Section 482 Cr.P.C., 1973 though all such pleas were very much available even at the first instance. Permitting the filing of successive petitions under Section 482 Cr.P.C., 1973 ignoring this principle would enable an ingenious accused to effectively stall the proceedings against him to suit his own interest and convenience, by filing one petition after another under Section 482 Cr.P.C., 1973 irrespective of when the cause therefor arose. Such abuse of process cannot be permitted.”

6. In view of the fact that the petitioner had withdrawn the first petition seeking quashing of FIR(supra) with liberty to take all the pleas before the learned trial Court, as well as the ratio of law laid down in *Bhisham Lal Verma’s case(supra)*, the present petition is dismissed.

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

8. However, nothing observed hereinabove shall be construed to be an expression of opinion by this Court on the merits of the case, lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial strictly in accordance with law. The petitioner shall also be at liberty to raise all the pleas before the learned trial Court at the appropriate stage.

(HARPREET SINGH BRAR)
JUDGE

16.07.2024
Neha

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