

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-3016-2018(O&M)

Date of order: 19.03.2024

Jatinder Kaur

.....Petitioner(s)

Vs.

State of Punjab & Others

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Mandeep Singh Sachdev, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG Punjab.

Nidhi Gupta, J.

CRM-31424-2018

This is an application under Section 151 Cr.P.C. for
condonation of delay of 103 days in filing the petition.

After going through the contents of the application,
which is supported by affidavit of Deepak, Clerk of Mandeep Singh Sachdev,
Advocate for the petitioner, the same is allowed subject to all just
exceptions and delay of 103 days in filing the present petition is condoned.

CRM-31425-2018

This is an application under Section 482 Cr.P.C. for
exemption from filing certified copies/true typed copies/photocopies of
judgment dated 24.08.2016 passed by learned CJM, Jalandhar as well as
judgment dated 12.09.2017 passed by learned Additional Sessions Judge,
Jalandhar, grounds of appeal filed before Sessions Judge, Jalandhar and
further permission to place on record the same.

After going through the contents of the application,
which is supported by affidavit of Harjit Singh, the same is allowed subject

to all just exceptions and aforesaid documents/judgments are placed on record.

MAIN CASE

Challenge in the present revision petition is to judgment dated 12.09.2017 passed by learned Additional Sessions Judge, Jalandhar in appeal against judgment dated 24.08.2016, whereby the accused/respondents No.2 and 3 herein have been acquitted from the charges under Sections 406 and 498-A IPC.

2. Learned counsel for the petitioner/complainant/wife inter-alia submits that FIR No.55 dated 11.04.2010 was registered under Sections 406 and 498-A IPC at Police Station Division No.7, Jalandhar on the basis of statement of petitioner against respondent No.2/mother-in-law, respondent No.3/husband, and Parkash Chand/father-in-law who died during trial. Challan was presented on 05.08.2010 and charges were framed on 12.06.2014. Vide judgment dated 24.08.2016, learned trial Court acquitted respondent No.2/mother-in-law of the charges i.e. 406 and 498-A IPC; and convicted respondent no.3 only under Section 498-A IPC. Appeals filed by the petitioner against the above said judgment dated 24.8.2016 were dismissed by learned Additional Sessions Judge, Jalandhar vide the impugned judgment dated 12.09.2017.

3. Learned counsel for the petitioner/ wife contends that the impugned judgment deserves to be set aside as the same has been passed merely on the basis of conjectures and surmises. It is submitted that enough evidence was led by the petitioner before the learned trial Court to prove misappropriation of istridhan by respondents No.2 and 3 as also to prove the cruelty committed upon the petitioner by the respondents. However, the said evidence has not been considered by the learned Courts below in proper perspective. It is further contended that the sole ground on which respondents No.2 and 3 have been acquitted is that major part of the offence was committed in Canada. It is argued that this is not so as offence was committed in India. Moreover, offence under Section 498-A IPC is a

continuing offence and therefore, respondents No.2 and 3 ought to have been convicted.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel for the petitioner, as also perused the case file in minute detail.

6. Perusal of the record of the case shows that as per the petitioner, she was married to respondent no.3 on 7.2.1999 in Jalandhar. As the petitioner had to return to Canada, she stayed with respondent no.3 for only one day and returned to Canada on 8.2.1999 with the consent of respondent no.3 and his family members. Upon reaching there, the petitioner sponsored respondent no.3 who then came to Canada. After a short while parents-in-law of the petitioner also reached Canada. It has been alleged that in Canada, the accused then raised a demand from the petitioner that she should give ₹10 lakhs in order to purchase the house in Canada in the name of respondent no.3. It is further alleged that upon this father of the petitioner sent C\$40,000 to the petitioner for buying a house in Canada in the name of respondent no.3. Thereafter, the accused is alleged to have made similar dowry demands from the petitioner and her family. It has also been alleged that respondent no.3 had kicked the petitioner in her stomach when she was pregnant due to which she had suffered abortion. Eventually, the petitioner left Canada in March 2009, along with her minor son, and since then she has been residing in India at her parental home. Thereafter, the petitioner had registered the present FIR no.55 dated 11.04.2010 under Sections 406 and 498-A IPC at Police Station Division No.7, Commissionerate Jalandhar.

7. On the other hand, it was the case of the accused/respondents herein that respondent no.3 was working as a 2nd officer in Merchant Navy. He had come to Canada in May 1999, as a visitor to meet his sister, namely Manju Bala. There he met the petitioner and they got married in Brampton, Canada on 7.8.1999. The parents-in-law of the petitioner did not attend the marriage which took place in Canada, and neither did they ever stay with the petitioner in Canada. It is further the

case of the accused that all the allegations made in the FIR regarding demand of dowry or beatings, are false and fabricated.

8. Father-in-law of the petitioner expired during trial. On the basis of the oral and documentary evidence led before it, the learned trial court vide judgment dated 24.08.2016 acquitted respondent No.2/mother-in-law of the charges i.e. 406 and 498-A IPC; and respondent No.3/husband of the petitioner was acquitted of the charge under Section 406 IPC and convicted under Section 498-A IPC. Three appeals were preferred against the said order:-

A) Appeal No.1 (CRA-424-2016) was filed by respondent No.3/husband against his conviction under Section 498-A IPC, which was allowed and the conviction under Section 498-A IPC was set aside.

B) Appeal No.2 (CRA-442-2016) was filed by the petitioner/complainant for enhancement of sentence, which was dismissed.

C) Appeal No.3 (CRA-441-2016) was filed by petitioner/complainant against acquittal of respondent No.2/mother-in-law, which was also dismissed.

9. All the aforesaid appeals were decided as above by common judgment dated 12.09.2017 by learned Additional Sessions Judge, Jalandhar. It is also relevant and needs be pointed out that the prayer in the present revision petition is ambiguous as it does not specify as to qua which appeal the present revision has been preferred. The petitioner had preferred two appeals against the judgment of the trial Court and she was therefore, required to specify as to what part of the order the petitioner was aggrieved against.

10. Be that as it may, the petitioner has also been unable to point out any perversity in the impugned judgment dated 12.9.2017. Bare perusal of the evidence shows that the charges as made could not be proven.

11. PW3/ Harjit Singh/father of the petitioner has admitted in his testimony that *"It is correct that the marriage of my daughter was performed at Brampton Canada as per Christian rites second time.*

Volunteered it was performed at the asking of accused. It is correct that accused Parmod Verma has obtained ex-parte divorce from the complainant at Canada. Volunteered at that time my daughter/complainant was in India and she was not in the knowledge of above said divorce proceedings. I am not in possession of any photograph or video of the marriage performed at Jalandhar. I have not placed on record the copy of entry of the register in which marriage certificate Ex. P1 is enter. it is correct that in my statement recorded by the police there is no specific averments regarding harassment and maltreatment to my daughter at Jalandhar. It is correct that since my deportation in the year 2005, I never visited Canada. It is correct that I have not personally seen any harassment, or treatment at Canada to my daughter at the hands of accused.”

12. Accordingly, prosecution was even unable to prove that marriage of the parties took place in India on 7.2.1999. Furthermore, it is admitted position on record that all the allegations made by the petitioner against the accused pertain to offences committed in Canada. It is also admitted position that the parties were subsequently granted divorce in Canada as evident from decree and certificate of divorce produced before trial Court as Ex. D3 and Ex. D4. Counsel for the petitioner has not been able to show any infirmity in the appreciation of evidence by the courts below. In fact, perusal of the impugned judgments shows that the findings returned therein are unexceptionable and merit no interference.

13. Moreover, the legal position in such like cases is by now well established. In the facts and circumstances of the present case, reference may be made to judgment of the Hon’ble Supreme Court rendered in case of **“Harmanpreet Singh Ahluwalia & Others Vs. State of Punjab & Others”** Law Finder Doc ID # 190773, wherein it has been held as under:-

“A. Criminal Procedure Code, Section 482 – Indian Penal Code, Section 420 and 406 Criminal Procedure Code Section 178 – Territorial jurisdiction – Parties married at Jalandhar thereafter living in Canada – Demand of dowry made in Canada – FIR

lodged at Jalandhar – FIR quashed, inter alia, on the ground that larger part of offence was committed in Canada”.

In the said case too, major part of the alleged offences had been committed in Canada and the parties therein had been granted divorce in Canada. Thus, in almost identical circumstances, the Hon’ble Supreme Court had quashed the FIR.

14. Reference may also be made to judgment of this Court in **“Satwant Singh & Others Vs. State of Punjab & Another” 2008 (4) RCR Criminal 429/Law Finder Doc ID # 144907**, wherein, in similar circumstances, the FIR was quashed by holding that: –

“Criminal Procedure Code, Sections 181 and 177 - Indian Penal Code, Sections 498A and 406 - Territorial jurisdiction - Marriage solemnized in India - Parties thereafter living in Canada - Both citizens of Canada - Petition for divorce and custody of the child filed in a Family Court at Canada - Wife sending complaint to police that she was harassed by parents of husband by making demand and misappropriation of dowry given at time of marriage - A case under sections 498A and 406 Indian Penal Code registered at Hoshiarpur - FIR quashed - Held :-

This is a classic case of misuse of process of the Court where process of the law has been used as a tool to harass the petitioners to vindicate her grudge on account of the proceedings taken out at Canada - In view of the fact that the Court at Garshankar/Hoshiarpur have no jurisdiction to entertain and try the case. 2004(3) RCR (Criminal) 988 : 2004(3) Apex Criminal 455 (SC) relied.”

15. In the case of **“Bahadur Singh & Others Vs. State of Punjab & Another” Law Finder Doc ID # 210334**, this Court in similar circumstances held as follows:–

“Criminal Procedure Code, Section 177 – Indian Penal Code, Sections 498A and 406 – Territorial jurisdiction – Husband and

wife living in Canada after marriage – Allegation by wife that father, brother, and brother’s wife of husband used to make demand through phone calls and husband used to beat her at Canada – Complaint under Sections 406, 498A of Indian Penal Code filed in India – Complaint quashed – Held:

Larger part of offence has taken place in Canada - Marriage has already been dissolved at Canada – Thus impugned FIR is nothing but an abuse of process of criminal law”.

16. Petitioner has failed to point out any legal perversity in the judgment of the learned Appellate Court.
17. **Dismissed.**
18. Pending application(s) if any also stand(s) disposed of.

19.03.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No