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221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 09.05.2024

Harish Ahuja and others

...Petitioners

V/S

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioners.

Mr. Rishab Singla, AAG Punjab.

Mr. Arshdeep Singh Brar, Advocate and
Mr. Manpreet Dhaliwal, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR, bearing No. 09 dated 23.09.2020 registered under Sections 498-A and 406 IPC at Police Station NRI Moga and all subsequent proceedings arising out of the same.

2. Briefly, the facts are that the marriage between the petitioner No.1-husband and respondent no.2-complainant, namely, Davinder Pal Kaur was solemnised on 02.03.2014 according to Hindu rites and rituals. Soon after the wedding, petitioner No.1 went back to Canada. In the month of February in 2015, respondent No.2 also moved to Canada. The petitioner No.1 and his family members demanded Rs. 25 lakhs from respondent No.2-complainant. The father of the complainant partly acceded to this condition and paid Rs. 6,50,000/- to the complainant's in-laws. Once respondent No.2-complainant reached Canada, she was subjected to harassment and taunts by her in-laws for not disbursing the remaining amount. Moreover, respondent

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No.2 had passed G.N.M. nursing diploma yet petitioner No.1 neither allowed her to join a clinic nor permitted her to obtain a driving licence. Furthermore, due to physical assault and mental cruelty, the complainant delivered a premature baby. In August, 2017 the in-laws forcibly took possession of the complainant's gold articles. Davinder Pal Kaur through her brother moved a complaint with the Canadian authorities which was later compromised when petitioner No.1 and his family promised not to mistreat her. Refusing to mend their ways, in August 2017, the complainant left the company of petitioner No.1 and his family and has been residing separately ever since.

3. Learned counsel for the petitioner *inter alia* contends that offence under Section 498-A is not made out against the petitioner. Further, the alleged offence has taken place in Canada and the FIR (supra) deserves to be quashed on the account of lack of territorial jurisdiction. Learned counsel points out that other family members have already been declared innocent during the enquiry. Additionally, the complainant moved to Canada in 2015 and after almost 3 years she started living separately. However, the instant FIR was registered on 23.09.2020, that too by the father of respondent No.2 on her behalf. Lastly, it is submitted that FIR neither discloses any specific time nor any specific allegations against the petitioners and their names have been mechanically added in order to harass them.

4. Per contra, learned counsel for respondent No.2 avers that the marriage as well as the demand for dowry of Rs. 25 lakhs took place in India. As such, the issue with regard to the jurisdiction does not hold good. The allegations levelled against the petitioners are completely substantiated by ample evidence brought on record including bills with regard to gold articles,



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venue for the wedding ceremony and other miscellaneous expenses as well as photographs of the wedding ceremony wherein cash and gold articles were handed over to the petitioners and his family members.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the alleged offences have entirely taken place in Canada. All the alleged incidents of cruelty, harassment and torture, took place in Canada and cognizance of it could not have been taken by the police in India. Even with respect to criminal breach of trust, the alleged misappropriation of dowry articles occurred in Canada as well. The parties had invoked the jurisdiction of Canadian Courts for their matrimonial dispute and dispute regarding the custody of their minor son. Chapter XIII of the Code of Criminal Procedure deals with the jurisdiction of the criminal courts in inquiries and trials. Section 177 Cr.P.C. states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 178 of Cr.P.C. reads as under:-

"178. Place of inquiry or trial.

(a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed, partly in one local area and partly in another, or

(c) where an offence, is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas."

In order to engage an investigating agency to inquire into the alleged offence, the territorial jurisdiction must be established. In the instant case, all the offences itself complained of arose in Canada and hence the FIR registered at



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Police Station, NRI, Moga would not be sustainable qua the petitioners. It is also imperative to mention that respondent No.2-complainant still resides in Canada and the instant FIR was registered through her father. Reliance in this regard may be placed on judgements of this High Court in *Ashish Jain vs. State of Haryana 2020 (2) R.C.R. (Crl.) 240*, *Partap Singh vs. State of Punjab 2010 (14) R.C.R. (Crl.) 465*, *Bahadur Singh vs. State of Punjab 2010 (3) R.C.R. (Crl.) 252* and *Surindervir Singh vs. State of Punjab 2020 (3) R.C.R. (Crl.) 265*.

6. The present case is squarely covered by the ratio of law laid down by a two Judge bench of the Hon'ble Supreme Court in *Harmanpreet Singh Ahluwalia vs. State of Punjab and others (2009) 7 SCC 712* wherein it was held that when the larger part of the alleged offence has occurred abroad, allowing criminal proceedings to continue in India would amount to an abuse of the process of law.

7. Furthermore, a two Judge bench of the Hon'ble Supreme Court in *Girdhar Shankar Tawde v. State of Maharashtra (2002) 5 SCC 177*, speaking through Justice Umesh C. Banerjee, opined as follows:

“18... In any event the wilful act or conduct ought to be the proximate cause in order to bring home the charge under section 498-A and not de hors the same. To have an event sometime back cannot be termed to be a factum taken note of in the matter of a charge under section 498-A. The legislative intent is clear enough to indicate in particular reference to Explanation (b) that there shall have to be a series of acts in order to be a harassment within the meaning of Explanation (b). The letters by themselves though may depict a reprehensible conduct, would not, however, bring home the charge of section 498-A against the accused. Acquittal of a charge under section 306, as noticed hereinbefore, though not by itself a ground for acquittal under section 498-A, but some cogent evidence is required to bring home the charge of section 498-A as well, without which the charge cannot be said to be maintained...”



8. In the facts and circumstance of the present case, this Court does not find any reason to allow criminal prosecution to continue against petitioners as the entirety of alleged offence has taken place in Canada. As such, in view of the ratio of law laid down in *Harmanpreet Singh Ahluwali (supra)*, FIR No. 09 dated 23.09.2020 registered under Sections 498-A and 406 IPC at Police Station NRI Moga and all subsequent proceedings arising out of the same are hereby quashed.

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

May 09, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No