225 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-34924-2019 (O&M)
Date of decision: 16.04.2024

Jagmohan Singh

...Petitioner

V/S

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amaninder Preet, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Impinder Singh Dhaliwal, Advocate
for respondent No. 2.

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HARPREET SINGH BRAR J. (ORAL)

1. The present petition is preferred under Section 482 Cr.P.C. seeking quashing of the FIR No. 09 dated 29.12.2018 registered under Section 498-A 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 and daughter of respondent no.2-complainant namely Mandeep Kaur Gill was solemnised on 12.03.2011 according to Sikh rites and rituals. Mandeep Kaur Gill was a temporary resident of Australia at the time of the marriage. In October, 2011, the petitioner also moved to Australia. Thereafter, in the year 2014, the couple received permanent residency in Australia following which the behaviour of the petitioner changed towards Mandeep Kaur Gill. The petitioner started maltreating and harassing her. Mandeep Kaur Gill moved a complaint with the police which was later compromised when the petitioner and his family promised not to mistreat her. In September 2017, the petitioner left the company of Mandeep Kaur Gill and started residing separately. On

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being informed of the same, respondent no.2 visited the house of the petitioner in Rajasthan where he was threatened and told the sole purpose of this marriage was to settle the petitioner in Australia. They also informed him that they are solemnising a second marriage of the petitioner as they are getting Rs. 50,00,000/- for the same. The family of the petitioner told respondent no.2 to tell his daughter to divorce the petitioner or they will disrupt her life.

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 Australia and the FIR (supra) deserves to be quashed on the account of lack of territorial jurisdiction. In fact, no complaint has been filed by Mandeep Kaur Gill in Australia. The petitioner was working in Chambal Fertilizers and Chemicals Limited, Punjab as an Assistant Manager and only moved to Australia on insistence of Mandeep Kaur Gill. The petitioner did not even possess a passport at that point. The daughter of respondent no. 2 was interested in maintaining any relations with the parents of the petitioner only to the extent of getting a share in the property of his late uncle Baldev Singh Brar. Moreover, the petitioner was kicked out of the house by Mandeep Kaur Gill as he did not bring his share from his parents and was only welcomed back when he started earning well.

4. Mr. Impinder Singh Dhaliwal, Advocate has put in appearance on behalf of respondent No. 2 and files his power of attorney. Same is taken on record. Learned counsel for the respondent No. 2 opposes the prayer made by learned counsel for the petitioner on the ground that offence punishable under Section 498-A is made out against the petitioner.

5. Having heard the learned counsel for the petitioner and after perusing the record of the case, it transpires that the alleged offence has entirely taken place in Australia. The present case is squarely covered by the

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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.

6. 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…"*

7. In the facts and circumstance of the present case, present petition is allowed and this Court does not find any reason allow criminal prosecution to continue against the petitioner as the entirety of alleged offence has taken place in Australia. As such, in view of the ratio of law laid down in ***Harmanpreet Singh Ahluwalia (supra),*** FIR No. 09 dated 29.12.2018 registered under Section 498-A IPC at Police Station NRI Moga and all

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subsequent proceedings arising out of the same are hereby quashed qua the petitioner herein.

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

(HARPREET SINGH BRAR)
JUDGE

April 16, 2024
Ajay Goswami

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

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