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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.43911 of 2023 (O&M)
Date of decision: 07.03.2024

Mandeep Kaur

... Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. G.S.Ghuman, Advocate for the petitioner.

Mr. Prabhdeep S. Bhandari, AAG, Punjab for respondent Nos.1 to 3.

Mr. Arnav Sood, Advocate for respondent No.4.

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MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C., *inter alia*, for quashing of FIR No.0063 dated 18.06.2022, under Section 420 of the Indian Penal Code, 1860, registered at Police Station Chabbewal, District Hoshiarpur.

(2) Above FIR was registered on the basis written application given by respondent No.4/informant and the allegations read as under:-

> *"Sir, It is humbly submitted that I, Parminder Singh son of Ranjit Singh, is resident of village Saidpur, Post Office Lehli Kalan, Tehsil & District Hoshiarpur. Accused No. 2 Gagandeep Singh son of Satnam Singh, who is brother of accused No. 2 Mandeep Kaur, was known to me. He told me that his sister is so intelligent in studies and that he is looking for some suitable match for his sister, so as to perform her marriage. He further went to say that his sister is willing to undergo IELTS and leave for Canada for having further studies, but they are not having sufficient resources to meet the expenses for her studies. The accused No.2*

started alluring me & my family members by saying that if the marriage of accused No.1 is performed with me, she will call me after arriving at Canada and we both would be able to settle in Canada.He also introduced me & my family members with accused No. 1 and we had discussion. Accused No. 1 told at that time that she want to undergo her studies in Canada and settle there, however her family members are not having sufficient means to bear the expenses for her studies & accommodation etc. Mandeep Kaur further went to say that if I may agree to bear the expenses for her studies and allied expenses, she will bring me to Canada and that she will repay the expenses, incurred on her studies. I had no doubt on accused at that time, I came under impression of accused and agreed to perform marriage with Mandeep Kaur & bear the expenses for her studies. I paid a sum of Rs.2,00,000/- to both the said accused on having asked by them. The accused told me that the said amount is required for getting prepared the papers for leaving abroad. Thereafter, my mother Smt.Paramjit Kaur and my grandmother Smt. Surinder Kaur borrowed loan from Bank. My grandmother borrowed loan for Rs.2,13,000/- in February, 2018, while my mother borrowed a loan for Rs.1,43,000/- in February, 2018, who further gave me the said loan amount, so as to pay College fee and other expenses for accused Mandeep Kaur. Thereafter, accused started demanding more money from time to time, on which, I further gave them a sum of Rs. 4,00,000/-, which was deposited by said Mandeep Kaur in her account, maintained in HDFC Bank, B.O. Garhshanker. Then I paid a sum of Rs.3,50,000/- to the said accused on account of College fee. The Visa for Canada granted to Mandeep Kaur on 27.4.2018, on which, we all were so happy. Our Ring Ceremony took place on 30.6.2018 at Saggi Resort, Hoshiarpur, for which, entire expenditure borne by me. Then my marriage took place with said accused No.1 on 1.7.2018 at Gurudwara Amar Darbar, Shergarh Kacha Road, Hoshiarpur. Mandeep Kaur left for Canada on 12.8.2018. At that time, I gave her a sum of Rs. One lac for getting Canadian Dollars. After leaving for Canada by accused No.1 Mandeep Kaur, the accused No.1 & 2 started saying that the expenses over there are on much higher side, and asked me to send more money. Hence I got transferred a sum of Rs.3,90,000/- from my account, maintained in Bank of India, on account of College fee. Then I started receiving phone calls & messages, who started demanding money time & again & paying her fee. Accused No. 1 also went to say that in case her fee is not timely paid, she will not be allowed to carry on her studies and even she can be deported to India. I tried to persuade accused No. 1 & 2 that I am not in a position to pay any other money, but they constantly kept on mounting pressure on me for sending money. Hence a sent a sum of Rs. 1,36,000/- on 6.11.2018, Rs. 1,50,000/- on 20.6.2019, Rs.2,00,650/- on 2.9.2019 from my account, maintained in Bank of India, on account of College fee of accused No.1 Mandeep Kaur. Moreover, I gave a sum of Rs.50,000/- on 29.8.2019 & Rs. 35,000/- on 2.9.2019 to accused, which amounts were got transferred to Bank account of Mandeep Kaur on having asked by Gagandeep Singh. I paid the said amounts from my account as well as that of my father. My father is residing abroad, who is having account in State Bank of India. I withdrew a sum of Rs.3,97,000/- from his account during the period from February, 2018 to September, 2020. Moreover, my mother Smt. Paramjit Kaur borrowed loan for Rs. 1,37,000/-

> *on 30.11.2019 & further loan for Rs. 1,65,000/- on 23.12.2020 and gave me entire amount, so as to meet the expenses of said Mandeep Kaur. I also borrowed loan from my friends & relatives from time to time. Then on 26.05.2020, the accused No. 2 told me that she needs further sum of Rs.2,00,000/-, as he is to send some articles for Mandeep Kaur. Hence I withdrew a sum of Rs. 1,30,000/-from Bank account on same day and got an amount of Rs. 70,000/-, lying at home and gave him the sum of Rs.2,00,000/-. Mandeep Kaur got prepared my Visa file, in which, she intentionally didn't provide required information, which fact I came to know on later stage. In fact, said Mandeep Kaur & her brother Gagandeep Singh were having intention to commit fraud from day one, who allured me and grabbed a sum of Rs.22 lac on the pretext that Mandeep Kaur will perform marriage with me and bring me to Canada, where we will settle or life. Both the said accused told lie, committed cheating with me and performed my marriage with accused No. 1 in fraudulent manner. I am having recording of monetary demands, made over phone, which is converted into CD and enclosed with this application. A copy of messages, seeking money, is also enclosed herewith. Accused No. 1 stopped picking my phone. I sent her messages, on which, she sent a message to the effect that she is not aware about the amount, obtained by her brother from me. She further went to communicate that she will repay the amount, spent by me on her College fee & other expenses, only if I may get divorce from her. I have been defrauded to great extent. Both the said accused, in connivance with each other, have committed fraud with me. Now, whenever I ask the accused to repay my money, they start threatening me and pressure is being mounted to divorce Mandeep Kaur and forget about my money. You are, therefore, humbly requested that an F.I.R. may be registered against said accused for committing fraud & cheating and justice may be provided to me."*

(3) Contends that above FIR has been registered as a counter-blast to the divorce petition filed by petitioner and moreover, parties i.e. petitioner as well as respondent No.4 have already been granted divorce by the Supreme Court of British Columbia on 08.06.2022. Further contends that during investigation, brother and sister-in-law of petitioner have been found to be innocent.

(4) Learned State counsel while opposing the prayer submitted that petitioner along with co-accused received an amount of Rs.22,00,000/- (Rupees Twenty-two lakhs) through various bank transactions as well as cash from respondent No.4, but petitioner after reaching Canada, stopped talking with respondent No.4; rather, claim to have obtained an *ex parte* decree on 08.06.2022. Also submitted that despite repeated notices as well as non-bailable warrants, petitioner is not coming forward to join the investigation and successfully evading the process of law. Lastly submitted that investigation is still going on, therefore, at this stage, there is no occasion for declaring the co-accused as innocent.

(5) Learned counsel for the complainant also, while supporting the pleas raised by State counsel, submits that petitioner along with other co-accused have cheated the complainant to the tune of Rs.22 Lakhs; hence, no ground is made out for quashing of the FIR.

(6) Heard learned counsel for the parties and perused the paper-book.

(7) From bare reading of the FIR, it is discernible *prima facie* that alleged amount was transferred in the account of petitioner on various occasions by respondent No.4. Paper-book also reveals that non-bailable warrants against petitioner were issued by learned Judicial Magistrate 1st Class, Hoshiarpur on 16.02.2023 & 16.08.2023. Also discernible that petitioner was duly conveyed about the process issued by learned JMIC through Ministry of Home Affairs/External Affairs, Government of India, New Delhi; but despite that, she is not coming forward to join investigation. Moreover, as on today, investigation is still going on and as such, final report under Section 173 Cr.P.C. is yet to the submitted. Also noteworthy that parties were relegated before the Mediator, but mediation remained unsuccessful.

(8) Although petitioner is claiming that she was granted *ex parte* divorce by the Supreme Court of British Columbia on 08.06.2022, but that shall not absolve her to face the investigation in present FIR and/or to evade the process of law.

(9) In view of the facts and circumstances discussed herein-above, no ground is made out to quash the impugned FIR along with consequential proceedings "at this stage".

(10) Consequently, there is no option except to dismiss the petition.

(11) Ordered accordingly.

(12) The above observations may not be construed as an expression of opinion on merits of the present case in any manner.

(13) Pending application(s), if any, shall also stand disposed off.

7th March, 2024 **(MAHABIR SINGH SINDHU)**
Gagan **JUDGE**

Whether speaking/reasoned	*Yes*
Whether Reportable	*Yes*