



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

CRM-M-47596-2024 (O&M)
Date of decision: 24.09.2024

Navjot Singh Pandher and othersPetitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajan Lakhanpal, Advocate
and Mr. Shubhkarman Singh Sandhu, Advocate
for the petitioners.

Mr. Subhash Godara, Addl. AG, Punjab.

HARPREET SINGH BRAR, J.

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of the FIR No. 02 dated 21.03.2019 registered under Section 406,498-A of the IPC at Police Station NRI, District Bathinda and all subsequent proceedings arising out of the same.

2. Briefly, the facts are that the marriage between petitioner No.1 and respondent No.2 was solemnised on 18.02.2014 according to Sikh rites and rituals. Respondent No.2 left for Canada after the marriage and returned to India on 25.12.2014. Upon her return, she resided in her matrimonial home till March, 2016. Petitioner No.3 and Harpreet Kaur had taken all the gold ornaments brought by respondent No.2 stating that the same are not needed in Canada. The petitioners-accused also began harassing her physically as well as mentally which caused her to return to Canada. Respondent No.2 was pregnant



at the time and subsequently gave birth to a male child on 27.10.2016. On 21.09.2016, petitioner No.1 arrived in Canada where he continued to harass respondent No.2. Petitioner No.1 refused to work and returned to India shortly after. He visited Canada again but moved to Toronto as he refused to live in the company of respondent No.2. The petitioners-accused have not only misappropriated all the gold ornaments of respondent No.2 but also Rs. 80,000/-.

3. Learned counsel for the petitioners *inter alia* contends that petitioner No.1 and respondent No.2 had a love marriage and left for Canada after solemnising marriage. However, they could not reside amicably together as husband and wife causing petitioner No.1 to return to India. Moreover, the couple has obtained a divorce from a Canadian Court. The FIR(supra) was registered by respondent No.2 through e-mail as she resides in Canada.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that this is the second petition seeking quashing of FIR(supra) qua petitioners No.2 and 3, who happen to be the parents-in-law of respondent No.2. The first petitioner bearing no. CRM-M-43200-2021 was dismissed vide order dated 19.04.2024 (Annexure P-3). The relevant part of the said order is reproduced below:

“ Learned counsel for the petitioners seeks permission for withdrawing the present petition with liberty to raise all the pleas taken in the present petition at the appropriate stage during the course of the trial. Learned counsel further submits that petitioners No. 1 and 2 are father-in-law and mother-in-law of the complainant-respondent, respectively and both of them are senior citizens and attending trial on each and every date would cause great hardship and inconvenience to them and prays for personal exemption of the petitioners No. 1 and 2 from the trial of the case.

In view of the above, present petition stands dismissed as withdrawn with liberty as aforesaid.

However, in view of the ratio laid down by this court in CRM-M25963-2023 titled as ‘Suresh Kumar and another Vs. The State of Haryana and another’ 2023 (2) Law Herald 1498, the



personal appearance of the No. 1 and 2 before the learned trial Court is ordered to be exempted, subject to the following conditions:-

- (i) they shall be represented through their counsel;*
- (ii) shall not delay/stall the proceedings;*
- (iii) shall not dispute their identity;*
- (iv) shall have no objection if the prosecution evidence is recorded in their absence but in the presence of their counsel;*
- (v) shall appear before the Court as and when required; and*
- (vi) any other condition, which the Court below may impose.”*

5. Since no change in circumstances is indicated, a second petition seeking quashing of FIR(supra) cannot be entertained. 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, made the following observations:

*“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 discussion above, the present petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of. However, the petitioner would be at liberty to raise all the pleas taken in the present petition at the appropriate stage during the course of trial.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

24.09.2024
Neha

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