



108

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64507-2024 (O&M)

Date of decision: 02.04.2025

RAMAN KUMAR ALIAS RINKU

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Shiv Kumar Sharma, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

CRM-13613-2025

Prayer in this application is for placing on record copy of the order dated 25.09.2019 passed by the learned Judicial Magistrate 1st Class, Fazilka as Annexure P-4.

For the reasons mentioned in the application, the same is allowed. Copy of the order dated 25.09.2019 passed by the learned Judicial Magistrate 1st Class, Fazilka as Annexure P-4 is taken on record, subject to all just exceptions.

CRM-M-64507-2024

1. The present petition has been filed under Sections 447 read with Section 528 of BNSS, 2023 for transfer of a criminal case No.115 dated 30.05.2017 (COMI/79/2017) titled as Raman Kumar @ Rinku versus Sonia and others from the Court of learned Chief Judicial Magistrate, Fazilka to the Court of competent jurisdiction at Jalandhar.



2. The brief facts of the present case are that a criminal complaint was filed by the petitioner vide Annexure P-1 in the Court of learned Chief Judicial Magistrate, Fazilka against his wife, who was arraigned as accused No.1 and other relatives/friends, who were arraigned as accused Nos.2 to 14. The allegations in the aforesaid complaint were pertaining to Section 494 of the IPC by alleging that accused No.1, who is respondent No.2 in the present case during the subsistence of earlier marriage has re-married. The learned Judicial Magistrate First Class, Fazilka after recording the preliminary evidence dismissed the aforesaid complaint qua accused No.2 to 14, who were the relatives/friends but at the same time, summoned accused No.1 i.e. the wife of the petitioner, who is respondent No.2 in the present case for committing an offence punishable under Section 494 of the IPC. The aforesaid order was passed by learned Judicial Magistrate First Class, Fazilka on 25.09.2019.

3. The petitioner assailed the aforesaid order before the learned Additional Sessions Judge, Fazilka by pleading that not only respondent No.2, who is his wife was required to be summoned but all the other accused were also required to be summoned being involved in the offence under Section 494 of the IPC. At the same time, respondent No.2-wife also assailed the aforesaid order passed by the learned Judicial Magistrate 1st Class, Fazilka on the ground that she could not have been summoned by the aforesaid summoning order on the ground of territorial jurisdiction because no cause of action had arisen at Fazilka in terms of Section 182 Cr.P.C. The learned Additional Sessions Judge, Fast Track Special Court, Fazilka on the revision petitions filed by both the parties passed the impugned judgment dated 20.09.2024 which is a common



judgment, in which so far as the revision petition filed by the petitioner seeking summoning of the remaining accused is concerned, the same was dismissed and so far as the revision petition filed by respondent No.2-wife challenging the aforesaid order passed by the learned Judicial Magistrate 1st Class, Fazilka on the ground of lack of territorial jurisdiction is concerned, the same was allowed on the ground that the learned Judicial Magistrate 1st Class, Fazilka has not referred and complied with the provisions of Section 182(2) Cr.P.C., which provides for the procedure for inquiring into the matters pertaining to Sections 494 and 495 of the IPC. In this way, the learned Additional Sessions Judge, Fast Track Special Court, Fazilka issued directions to the learned trial Court to pass a fresh order after taking into consideration the observations made in the judgment. The observations which were made by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka were based not only on Section 182(2) Cr.P.C but also on various judgments of Hon'ble Supreme Court to the effect that the Court which has taken cognizance is not bound to dismiss the complaint on the ground of lack of territorial jurisdiction but at the same time is required to either return the complaint or transfer it to the Court having jurisdiction over the matter.

4. The aforesaid judgment dated 20.09.2024, which has been passed by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka has not been challenged by the petitioner neither in the present petition nor anything has been shown that the same has been challenged anywhere else. The prayer of the petitioner in the present petition is only regarding seeking transfer of the complaint from Fazilka to Jalandhar.



5. Learned counsel for the petitioner submitted that once the learned Court of Fazilka did not have jurisdiction then it ought to have transferred the matter to a Court of competent jurisdiction but the same has not been done and therefore, the present petition has been filed for seeking transfer of the aforesaid criminal case. He further submitted that after the aforesaid direction was issued by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka vide Annexure P-3 on 20.09.2024, the learned trial Court has not further proceeded with the matter and rather a request was made before the learned trial Court that the matter is pending before this Court and it is subjudice and therefore, no order may be passed. He also submitted that the petitioner cannot withdraw the complaint so as to file in another Court and that is the reason as to why the present petition has been filed for seeking transfer of the aforesaid complaint.

6. I have heard the learned counsel for the petitioner.

7. It is a case where a complaint was filed by the petitioner against respondent No.2-wife and some of her relatives/friends, whereby allegations of bigamy were made. The learned trial Court summoned respondent No.2-wife after recording the preliminary evidence but dismissed the complaint qua the other relatives/friends. Both the parties filed revision petitions before the learned Additional Sessions Judge, Fazilka. So far as the revision petition filed by the petitioner is concerned, the same was dismissed and so far as the revision petition filed by respondent No.2-wife on the ground of lack of territorial jurisdiction is concerned, the same was allowed and the learned Additional Sessions Judge, Fazilka rather issued directions to the learned trial Court to pass



a fresh order after taking into consideration the observations made in the judgment. Paras No.24 and 25 of the aforesaid judgment passed by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka, are reproduced as under:-

“24. There is no dispute with respect to ratio decidendi of judgments passed in cases of Sukhdev Singh and others versus Sukhvinder Kaur (supra.), S. Karan Singh Sodhi And and others versus Jatender Jeet Kour (supra.) and Sarla Sanan versus State of Punjab (supra.), relied upon by counsel for respondents, wherein it has been held that venue of trial is place where second marriage took place and the court where wife resided after marriage has no jurisdiction, but these judgments are of no avail to respondents for dismissal of complaint, because even in case of want of territorial jurisdiction, the Court which has taken cognizance, is not bound to dismiss complaint and rather, it is required to either return the complaint or transfer itself to the court having jurisdiction over the matter.

25. On the basis of discussion held in preceding paragraphs of this judgment, this court is of the opinion that there is no merit in petition filed by petitioner whereby he has assailed impugned order and has requested for summoning of all respondents for the offences for which he had filed complaint. Accordingly, his revision petition (No.252/2019) is ordered to be dismissed. On the other hand, as ld. trial court has passed impugned (summoning) order without going through the provision contained in Section 182 (2) of Cr.P.C. while summoning respondent instead of returning or transferring complaint, consequently, the impugned order qua respondent is set aside with direction to ld. trial court to pass fresh order for taking into consideration the observations made in this judgment by this court. Accordingly, the revision petition (No.241/2019) stands allowed. Trial Court record alongwith copy of this judgment be transmitted forthwith to the quarter concerned. One copy of this judgment be placed on record of both files of revision petitions and thereafter, the files be consigned to the record room.”



8. A bare perusal of the aforesaid would show that on the basis of the statutory provisions of law contained under Section 182(2) Cr.P.C., whenever a complaint is filed in a Court which is not competent on the basis of territorial jurisdiction then the Court is not to dismiss the complaint but is required to either return the complaint or transfer the same to the Court of competent jurisdiction. Since the learned Judicial Magistrate 1st Class, Fazilka did not adhere to the aforesaid provisions and did not adjudicate upon the territorial jurisdiction, the learned Revisional Court allowed the revision petition vide judgment dated 20.09.2024 and issued directions to the learned trial Court to pass a fresh order after taking into consideration the observations made in the judgment. In this way, the learned Additional Sessions Judge, Fast Track Special Court, Fazilka observed that the learned trial Court has passed the summoning order against respondent No.2-wife without going through the provisions contained in Section 182(2) Cr.P.C, by summoning her instead of returning or transferring the complaint and therefore, the order qua respondent No.2-wife was set aside by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka by issuing directions.

9. During the course of arguments, the learned counsel for the petitioner submitted that the learned trial Court has not passed the aforesaid order till date in compliance with the judgment passed by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka in revisional jurisdiction because the learned trial Court was apprised and requested that the matter is subjudice before this Court, wherein the petitioner is seeking transfer of the criminal complaint. It was also the case of the learned counsel for the petitioner



that the petitioner cannot withdraw the complaint and file a fresh complaint before the Court of competent jurisdiction. Both the arguments which have been raised by the learned counsel for the petitioner are not only unsustainable but are also frivolous in nature. It is a case where the judgment passed by the learned Revisional Court is not challenged by the petitioner either in the present petition or anywhere else and therefore, the same has attained finality till now. The subject matter which the petitioner is raising in the present petition has already been adjudicated by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka in revisional jurisdiction, whereby on the basis of the provisions of Section 182 (2) Cr.P.C, the learned Additional Sessions Judge, Fast Track Special Court, Fazilka has accepted the revision petition of respondent No.2-wife and directed the learned trial Court to pass a fresh order after taking into consideration the observations made in the judgment. It is not understood as to why once the grievance of the petitioner has already been redressed, although on the revision petition which was filed by his wife pertaining to the issue of lack of territorial jurisdiction regarding which now the petitioner himself is stating that the territorial jurisdiction vests in the Court of Jalandhar, the present petition has been filed agitating the same subject matter which now even the petitioner is accepting to be correct.

10. The second argument which has been raised by the learned counsel for the petitioner that on his request the matter has been adjourned by the learned trial Court is again not acceptable because there was no interim order passed by this Court, at any stage. Instead of letting the learned Judicial Magistrate 1st Class, Fazilka to proceed with the matter in compliance of the



judgment passed by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka in revisional jurisdiction, it is not understood as to why the learned trial Court was requested by the petitioner not to proceed with the matter because of the fact that the case is pending before this Court. It is also important to note that none of the orders passed by the learned trial Court after the judgment passed by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka has been placed on record nor has been shown to the Court but it is only so pleaded by the learned counsel for the petitioner in the Court today.

11. In view of the aforesaid facts and circumstances, the present petition is hereby dismissed. Since the present petition is *ex facie* frivolous and vexatious in nature, the same is dismissed with costs of Rs.15,000/-. The petitioner is directed to deposit the aforesaid costs before the High Court Legal Services Committee, within a period of three months from today. In case the aforesaid costs are not deposited by the petitioner within a period of three months as aforesaid, then further process will be undertaken for recovery of the aforesaid costs in accordance with law including recovery as arrears of land revenue.

12. The Registry is directed to list this case after three months for compliance purposes.

(JASGURPREET SINGH PURI)
JUDGE

02.04.2025
Chetan Thakur

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