
(2010) 04 P&H CK 0302
In the Punjab And Haryana At Chandigarh

Bahadur Singh and Others	Vs	APPELLANT
State of Punjab and Another		RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2010) 3 RCR(Criminal) 252

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kanwaljit Singh Ahluwalia, J.—By this common order, Criminal Misc. No. 9162-M of 2006 preferred by Bahadur Singh, Chhinder Pal Kaur and Mohinder Singh and Criminal Revision No. 1235 of 2007 preferred by these very persons, shall be decided together.

2. In Criminal Misc. No. 9162-M of 2006, the petitioners have sought quashing of case FIR No. 281 dated 21.9.2005 registered at Police Station Payal, District Ludhiana, under Sections 498A and 406 IPC (Annexure P1).

3. In Criminal Revision No. 1235 of 2007, since proceedings were not stayed in the aforesaid petition, the charges were framed against the petitioners on 7.5.2007. Thus, it has been prayed that order dated 7.5.2007 (Annexure P4) accompanied by charge sheet be also quashed.

4. Ajmer Singh son of Mohinder Singh was married with Parminder Kaur, respondent No. 2, on 4.3.2000. Mohinder Singh is his father, Bahadur Singh is his brother and Chhinder Pal Kaur is wife of Bahadur Singh. Thus, the complainant/respondent No. 2 has sought prosecution of her brother-in-law Bahadur Singh, father-in-law Mohinder Singh and Chhinder Pal Kaur, wife of brother of the husband. The FIR was registered on the written application submitted by Parminder Kaur, respondent No. 2. In para No. 2 of the application, the complainant stated that for the last about eight years, she is residing in

Canada and has got passport, driving licence and other documents from Canadian Authorities. It is stated that she was married with Ajmer Singh on 4.3.2000, according to Sikh Rites, at village Siar. At the time of marriage, dowry articles were entrusted to her husband and his relations. Immediately, after marriage, the accused started harassing her that she, being the resident of Canada, has not given sufficient dowry. The complainant went to Canada and applied for immigration of her husband to Canada. She had spent Rs. 4,00,000/- to facilitate the immigration of her husband. It is stated that the present petitioners have been making phone calls to the complainant and demanding that Rs. 20,00,000/- should be sent to India, otherwise the complainant cannot stay with her husband. It will be apposite here to reproduce para Nos. 7 and 8 of the FIR:

7. That on refusal by the applicant for sending Rs. 20 lacs the behaviour of my husband become more rude, he started beating and rebuking on every matter and never cared for the applicant. Due to this, the applicant remained mentally upset.

8. That whenever any telephone call is received from my in-laws, the behaviour of my husband Ajmer Singh accused No. 1 become more rude. One day when accused No. 2 and 6 made telephone call to Canada and they repeatedly said to me that if the applicant cannot send Rs. 20,00,000/ (Rs. Twenty Lacs) to India then she has not right to live with Ajmer Singh accused No. 1, if the applicant had to live with accused No. 1 then she immediately send Rs. 20,00,000/- (Twenty Lacs) to India after taking from her parents and they also talked with the husband of the applicant and he said to me in a taunting voice that if the applicant wants to live then she should immediately send Rs. 20,00,000/ (Rs. Twenty Lacs).

5. Thus, it is evident that beating, if any, was given by the husband in Canada. The petitioners had demanded the amount of dowry by making phone calls to her in Canada. It has been contended before me that after marriage Ajmer Singh migrated to Canada where he was living with his wife and since the differences in the matrimonial life cropped up, they started residing separately since 15.4.2003. A divorce petition was filed on 6.2.2004 in the Ontario Superior Court of Justice at Canada. A copy of divorce petition has been annexed with Criminal Misc. No. 9162-M of 2006 as Annexure P2. In the divorce petition filed by Ajmer Singh, husband of the complainant, the ground of divorce pleaded was separation since April 2003. The husband had also pleaded that he was also subjected to physical and mental cruelty. Intolerance on the part of respondent to the divorce petition (complainant) was also averred. Vide Annexure P3, the Ontario Superior Court of Justice had dissolved the marriage of parties on 5.2.2005.

6. Learned Counsel for the petitioners has brought into my notice Clause 30 of the divorce petition which states that the parties have entered into the domestic contract and other written or oral financial arrangements. In the written

statement filed by respondent No. 2/complainant, through her attorney Balbir Singh, it has been admitted that the couple had left for Canada after their marriage on 4.3.2000. It is further stated that ever after the registration of the case, husband and wife are residing in Canada. Two peculiar features of this case cannot be ignored that the demand of dowry was made through phone calls received by the complainant at Canada and that the demand was also made through the husband of complainant who was also residing there. It is stated that once demand was made, the husband used to beat the complainant at Canada. Thus, in the present case, the larger part of offence has taken place in Canada. The marriage between Ajmer Singh and the complainant has already been dissolved at Canada. Thus the impugned FIR is nothing but an abuse of process of criminal law as the complainant through her attorney intends to satisfy her feeling of revenge and vengeance. To arrive at a conclusion that the FIR can be quashed, this Court place reliance upon the judgment rendered in Harmanpreet Singh Ahluwalia v. State of Punjab 2009(2) RCr R 956.

7. As a result of discussion made above, both Criminal Misc. No. 9162-M of 2006 and Criminal Revision No. 1235 of 2007 are accepted. The impugned FIR, along with all the subsequent proceedings including the impugned order of framing charge, is quashed.