

Naresh Mehta v. State of Punjab, (Punjab And Haryana) : Law Finder Doc Id # 1633214
PUNJAB AND HARYANA HIGH COURT

Before:- Mr. Fateh Deep Singh, J.

CRM-M No. 32347 of 2014. D/d. 11.09.2019.

Naresh Mehta & Others - Petitioner

Versus

State of Punjab & Another - Respondent

For the Petitioner :- Mr. Ashish Aggarwal, Advocate.

For the Respondent No.1/State. :- Mr. Harbir Sandhu, Assistant Advocate General, Punjab.

For the Respondent No.2 :- Mr. Veneet Sharma, Advocate.

Criminal Procedure Code, 1973, Sections 468 and 482 - Indian Penal Code, 1860 Section 498 Quashing of proceedings - Time barred complainant - Marriage took place between the couple on 11.12.1999 - First complaint was instituted on 04.12.2002, which stood dismissed in default on 20.09.2007 - Second complaint was instituted on 30.01.2013 i.e. after a period of a little less than five-and-half years of the order of dismissal of the first complaint - Taking computation of period of limitation from the date of filing of the complaint, in the light of ratio laid down by Hon'ble the Supreme Court in 'Japani Sahoo v. Chandra Sekhar Mohanty' de hors cognizance of the complaint being hopelessly barred by limitation - Initiation of proceedings after such a yawning gap which is more than nineteen years of the marriage, renders the allegations stale and unbecoming of a trial - Proceeding quashed.

[Paras 3 to 5]

Cases Referred :

[Arun Jha v. State of Haryana 2006\(1\) RCR\(Criminal\) 300](#)

Ashok Bajaj v. State of Haryana 2003(1) CLJ (Criminal) 194

[Japani Sahoo v. Chandra Sekhar Mohanty AIR 2007 SC 2762](#)

Jatinder Singh v. Ranjit Kaur 2001 Cri.L.J. 1015

[M. Saravana Porselvi v. A.R. Chandershekhar @ Parthiban 2008\(3\) RCR\(Criminal\) 454](#)

Om Parkash Bhatia v. State of Punjab 2002(1) RCR(Criminal) 595

Smt. Hukami Devi v. The State of Haryana 1992(1) RCR(Criminal) 357

ORDER

Mr. Fateh Deep Singh, J. - The private respondent No.2 Ritika filed against the petitioners Naresh Mehta (father-in-law), Sunita Mehta (mother-in-law) and Amit Mehta (husband) and others a criminal complaint under sections [406/498A](#) IPC. The allegations in brief are that the marriage between the complainant and Amit Mehta took place on 11.12.1999 wherein sufficient dowry articles were given to the accused, however, the accused husband and the in-laws of the complainant were not happy with the same and raised a demand of more including a car. It is thereafter, the allegations have come about as to demand of cash etc. leading to matrimonial dispute. The wife as a consequence of this, filed on 04.12.2002 a criminal complaint (Annexure P1) in which the accused were summoned vide orders dated 13.09.2003 (Annexure P2). However, during the course of the same, on account of non-prosecution of the criminal complaint vide orders dated 20.09.2007 (Annexure P3) the complaint was dismissed in default. On the same very allegations, a second complaint (Annexure P4) was instituted by the wife on 30.01.2013 and vide orders dated 04.01.2014 (Annexure P5) the petitioners accused were summoned under sections [406/498A](#) IPC against which they have invoked jurisdiction of this Court under Section 482 Cr.P.C. seeking quashment of this complain (Annexure P4) and the summoning order (Annexure P5).

2. Upon hearing Mr. Ashish Aggarwal, Advocate for the petitioners; Mr. Harbir Sandhu, Assistant Advocate General, Punjab representing respondent No.1/State; Mr. Venet Sharma, Advocate on behalf of respondent No.2 and perusing the records of the case.

3. It is writ large on the records and could not be displaced by any of the sides that the marriage took place between the couple on 11.12.1999 and the first complaint (Annexure P1) was instituted on 04.12.2002 and which stood dismissed in default on 20.09.2007 (Annexure P3) and thereafter, second complaint (Annexure P4) was instituted on 30.01.2013 i.e. after a period of a little less than five-and-a half years of the order of dismissal of the first complaint. As is there, there is no mention or reasons how it was necessitated for institution of second complaint or the fate of the first complaint besides the fact that under both the offences punishable under sections [406/498A](#) IPC maximum sentence prescribed is three years. Under Section 468 Sub Section (2) Clause (c) Cr.P.C., the period of limitation is three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Thus, in the light of the bar of Section 468(1) Cr.P.C., no Court shall take cognizance of an offence detailed in Sub Section (2) after expiry of period of limitation. Even assuming, as is there in the first complaint (Annexure P1), the cause of action has accrued to the complainant as detailed by her in the complaint on 03.03.2001 and thus, the summoning order in the second complaint had been issued on 04.01.2014 when the Court has taken cognizance of the offence and therefore, by that analogy it is after almost thirteen years the same has come about and is hopelessly barred by limitation. Even otherwise, taking computation of period of limitation from the date of filing of the complaint, in the light of ratio laid down by Hon'ble the Supreme Court in '**Japani Sahoo v. Chandra Sekhar Mohanty**' AIR 2007 SC 2762 de hors cognizance of the complaint being hopelessly barred by limitation.

4. No doubt, upon dismissal of the first complaint, the complainant has a right to either file a fresh complaint, a revision or a petition under Section 482 Cr.P.C. for which reliance is sought to be placed on '**Jatinder Singh v. Ranjit Kaur**' 2001 Cri.L.J. 1015, and since the complainant has availed off remedy of filing fresh complaint, but cannot escape rigor of limitation. Learned counsel for the petitioners has sought support from '**M. Saravana Porselvi v. A.R. Chandershekhar @ Parthiban & others**' 2008(3) RCR(Criminal) 454; '**Smt. Hukami Devi & others v. The State of Haryana and another**' 1992(1)

RCR(Criminal) 357; 'Ashok Bajaj v. State of Haryana' 2003(1) CLJ (Criminal) 194; 'Om Parkash Bhatia v. State of Punjab' 2002(1) RCR(Criminal) 595; 'Arun Jha & another v. State of Haryana & another' 2006(1) RCR(Criminal) 300 to enliven his arguments and which could not be challenged by learned counsel for the respondents.

5. In the light of what has been detailed and discussed above, initiation of proceedings after such a yawning gap which is more than nineteen years of the marriage, renders the allegations stale and unbecoming of a trial. What one can assume is that it is nothing but a misuse of the process of the Court and would not sub serve any purpose in dispensation of justice. It is a fit case for this Court to exercise its inherent jurisdiction under Section 482 Cr.P.C. to prevent further prejudice and harassment to the petitioners. In the light of the same, proceedings by way of criminal complaint No.347/13 dated 30.01.2013 (Annexure P4) as well as the summoning order dated 04.01.2014 (Annexure P5) including the consequences arising therefrom are hereby quashed. The instant petition stands disposed off in those terms.