

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

**CR No. 601 of 2013 (O&M)
Date of decision: 04.12.2015**

Babli Rani

... Petitioner

versus

Rajesh Kumar

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Mansur Ali, Advocate for the petitioner.

Mr. A. S. Gill, Advocate for the respondent.

K.Kannan, J.

The revision petition is against the order declining to restore an application which was dismissed as withdrawn on 30.07.2008. The dismissal of the application made on that date was with reference to a decree by mutual consent which was granted on the second motion on 19.11.2005. The restoration application was filed stating that the application had been filed in the year 2008 and posted on 30.07.2008 but withdrawn after the wife lodged a FIR against the husband and there had been compromise between the parties and that, therefore, she did not want to prosecute the application for setting aside the decree by mutual consent. The restoration of the main petition, according to the wife, became essential to consider the application filed in the year 2008 since the compromise has not been effected.

The withdrawal of a suit or an application constitutes an abandonment of action under Order 23 CPC. There is no exception provided under law for restoring such an application unless the order of withdrawal was itself vitiated in some way. If the petitioner thought registration of FIR against the husband would satisfy her and withdrew the application then that satisfaction by itself must be the reason why a fresh application for restoration will be barred. A criminal complaint

lodged through FIR did not escalate to further action by the police cannot be a ground for restoration of application withdrawing the application filed for setting aside the decree. There is no legally justifiable ground which was made for restoration of the application.

There is no error in the order. The civil revision petition is dismissed accordingly.

(K.KANNAN)
JUDGE

04.12.2015
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