

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16235 of 2014 (O&M)
Date of Decision: 21.5.2015

Anita Rani

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Rajiv Joshi, Advocate for the petitioner.
Mr. P.S. Garewal, DAG, Punjab for the respondent.

NAVITA SINGH, J.

1. The present petition is filed by Anita Rani for quashing of FIR No.49 dated 7.5.2003 registered at Police Station Nurmahal, District Jalandhar under Sections 406,420,498-A and 120-B of the Indian Penal Code.
2. The above said case was registered on the complaint of Amita daughter of Brij Bhooshan Joshi on the ground that she was married to Sandeep Kumar (brother of the petitioner) on 2.12.2001 and sufficient dowry was given by her parents. The accused were, however, not satisfied and started torturing the complainant physically and mentally. She was also not permitted to visit her parents. Her husband Sandeep Kumar, father-in-law Roshan Lal, mother-in-law Kanta Rani, sister-in-law Amita and Kailash husband of Amita, were all involved. They administered some intoxicating substance to her and made her sign some blank papers. She apprehended that those papers would be misused by them. She had come to the house of her parents empty handed. All her istri dhan had been retained by them.
3. Counsel for the appellant contended that the latter was declared proclaimed offender because she left for Canada on 18.3.2004 and since the

date of FIR was 7.5.2003, she had never been called by the police to join investigation nor any interrogation was made from her.

4. Prior to the lodging of the FIR, a compromise had taken place between Sandeep Kumar and Amita, on account of which the petition under Section 13-B of the Hindu Marriage Act, was filed and the marriage was dissolved. The complainant had settled all the disputes. After the dissolution of marriage, the FIR was lodged.

5. Counsel for the petitioner contended that since the matter had been settled and the marriage was dissolved, the petitioner presumed that she having not been contacted by the police for 10 months, she could not contemplate that the police still needed her. Also her husband being a resident of Canada, she joined his company leaving India almost 10 months after the FIR, till which date she had no clue about the proceedings in the FIR case.

6. It was also submitted that the other persons, who were sent for trial i.e. her brother and parents, were acquitted on 26.4.2013 (Annexure P5).

7. State counsel submitted that since the petitioner was declared a proclaimed offender, the FIR should not be quashed as she is required to face the trial. She intentionally left the country to evade arrest.

8. Counsel for the petitioner relied upon a Division Bench judgment of this Court reported as Sudo Mandal alias Diwarak Mandal Vs. State of Punjab 2011 (2) RCR (Criminal) 453 where it was held that since the persons who were tried had been acquitted, proceedings against the persons absconding, should also be quashed as it would be an empty formality to send them for trial on the basis of the same untrustworthy evidence, which led to acquittal of other accused.

9. Reliance was also placed on the judgment of Supreme Court titled Ruchi Agarwal Vs. Amit Kumar Agarwal 2004 (4) RCR (Criminal) 949 where the

wife had not withdrawn the FIR after entering into the compromise and getting divorce by mutual consent and the Supreme Court quashed the proceedings

10. In the present case, the main accused i.e. the husband and parents-in-law of the complainant were acquitted. The role of the married sister-in-law could not be any more or graver than the other accused. Therefore, even if the petitioner surrenders or is arrested and tried, the trial would be an empty formality especially in view of the fact that the FIR was lodged after the compromise had taken place and the marriage of Amita and Sandeep Kumar was dissolved.

11. In view of the above, the petition is allowed. FIR qua the petitioner and all proceedings related thereto, including the order vide which she was declared proclaimed offender, are quashed.

(NAVITA SINGH)
JUDGE

21.5.2015
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