

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

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**CRM-M-17694-2014
Date of Decision: 26.5.2015**

JEEWAN KUMAR

.....Petitioner

Vs

STATE OF PUNJAB AND ANR.

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Amit Dhawan , Advocate
for the petitioner.

Mr.Varun Sharma, AAG, Punjab.

- 1. Whether Reporters of local papers may be allowed to see the judgment ?***
- 2. To be referred to the Reporters or not ?***
- 3. Whether the judgment should be reported in the Digest?***

RAJ MOHAN SINGH, J. (oral)

Prayer in this petition is for quashing of FIR No. 84 dated 15.8.2009 registered under Sections 406, 498-A IPC at Police Station Bhogpur District Jalandhar as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Compromise was effected between the parties on 22.2.2010 vide which respondent No.2 Babli Verma received lump sum amount of ₹ 3,25,000/- as full and final claim arising

out of matrimonial relationship with the petitioner. It was decided between the parties that respondent No.2 shall withdraw complaint and petition under Section 125 Cr.P.C. and shall also make statement for quashing of present FIR.

Thereafter, a petition for divorce on the basis of mutual consent under Section 13-B of the Hindu Marriage Act was filed before Additional District Judge, Jalandhar on 22.2.2010 i.e. the date on which settlement was entered into between the parties. Both the parties appeared therein. Respondent No.2 admitted the factum of receiving an amount of ₹ 3,25,000/- towards permanent alimony to her entire satisfaction and resultantly, vide judgment dated 3.9.2010, divorce was granted, thereby dissolving the marriage by decree of divorce passed by Additional District Judge, Jalandhar.

Present petition for quashing of FIR on the basis of compromise was filed thereafter. Notice of motion was issued on 21.5.2014. On 23.7.2014, following order was passed:-

“The Registry has reported that notice issued to the respondent no.2 received back with the report that she refused to take the notice and notice was affixed on the door.

Learned counsel for the petitioner states that a date may be given to appear before the Illaqa Magistrate for recording the statement of the parties

with regard to the compromise and he would inform respondent no.2 about the date fixed by this Court.

The parties are directed to appear before the Illaqa Magistrate on 11.08.2014 and the Illaqa Magistrate shall record the statement of all the affected parties and shall send a report to this Court whether the compromise has been arrived at between the parties or not and whether it is voluntary.

Report of the trial Court is awaited for 17.09.2014.”

Since respondent No.2 had already refused to take notice of this Court and accordingly, affixation was made on the door, the same can be treated as valid service for the purpose of deciding the present case. Thereafter, vide order dated 23.1.2015, it was recorded by this Court that respondent No.2 had neither put in appearance before this Court despite service through affixation nor appeared before the Magistrate for recording her statement. Again opportunity was given to respondent No.2 to ensure her presence before the Court for the purpose of recording her statement. Last opportunity was granted to the parties to record their statements in respect of compromise. Despite the orders passed by this Court, respondent No.2 failed to appear before the Magistrate.

Learned counsel for the petitioner states that in

view of pathetic attitude of respondent No.2 in not adhering to the terms and conditions of the compromise as well as notice issued by this Court, petitioner is also thought it appropriate not to appear before the magistrate as that would not yield any meaningful result.

Petitioner craves indulgence of this Court on the strength of judgment rendered by Hon'ble the Apex Court in **Ruchi Agarwal vs. Amit Kumar Agawal 2004 (4) RCR (Crl.) 949.**

Learned counsel further states that when in pursuance to valid compromise, the husband has performed his part of obligation by paying the amount towards full and final settlement and the wife does not turn up to honour the obligation then the Court is entitled to quash the proceedings in order to prevent misuse of process of law and in order to achieve ends of justice.

In **Satish Gathwal vs. State 1999 (1) RCR (Crl.) 59,** Delhi High Court has also taken note of the fact that after entering into compromise and receiving the payment and after grant of divorce by mutual consent, the breach of undertaking or backing out from the undertaking would also amount to contempt of Court and misuse of process of Court. In such an eventuality, the Court came to the rescue of the husband thereby quashing the FIR by taking cognizance of all attending

circumstances.

Similarly, in Ram Lal and others vs. State of Haryana and another 2008 (2) RCR(Crl.) 823, this Court also commented upon the aforesaid proposition. When complainant backs out from the compromise after getting the amount as well as *istridhan*, the FIR along with entire proceedings arising therefrom were ordered to be quashed by this Court in exercise of powers under Section 482 Cr.P.C. This Court is of the view that even if the complainant has not come forward in compliance of terms and conditions of compromise after seeking divorce on the basis of mutual consent, present FIR along with subsequent proceedings can be quashed.

Resultantly, FIR No. 84 dated 15.8.2009 registered under Sections 406, 498-A IPC at Police Station Bhogpur District Jalandhar and all the subsequent proceedings arising therefrom, are quashed.

(RAJ MOHAN SINGH)
JUDGE

May 26, 2015
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