

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

**Crl. Misc. No. M-22240 of 2014 (O&M)
Date of decision : 25.05.2015**

Sukhwinder Singh & other

..... Petitioners

versus

State of Punjab & another

... Respondents

CORAM:- HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. B.S. Sudan, Advocate
for the petitioners.

Mr. V.P.S. Sidhu, AAG, Punjab.

Mr. Rajdeep Singh Cheema, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing FIR no. 13 dated 19.06.2012 registered under Section 406/498-A IPC at Police station Women Cell, Patiala, District Patiala.

2. Relevant facts are that petitioner no.1 was married to respondent no.2 in 2008. Petitioner no.2 is the mother and petitioner no.3 is the maternal uncle of petitioner no.1. Disputes arose between the couple which led to lodging of FIR No.13 dated 19.06.2012 against a number of persons. A case under the Domestic Violence Act was also filed. Earlier FIR No.305 was registered on 05.09.2011 by the father of the complainant.

3. Petitioner no.1 had filed a petition under Section 9 seeking Restitution of Conjugal of Rights at Delhi.

4. The police investigated into the complaint and filed challan against three persons. The matter was referred to Mediation and a compromise was effected. According to the compromise, the parties agreed on the following main terms:-

1. A sum of Rs.9.5 lacs was to be paid by the petitioners to respondent no.2 as permanent alimony.
2. A petition under Section 13-B was to be filed for divorce on mutual consent.

5. A sum of Rs.4.5 lacs was to be paid on the 1st motion, the remaining amount was to be paid at the time of recording of the final statement. It was pleaded that the petitioners and respondent no.2 had agreed to withdraw all the cases filed by them against each other.

6. A petition under Section 13-B of the Hindu Marriage Act was filed in the Court of Additional District Judge, Patiala and a sum of Rs.4.5 lacs was paid through demand draft at the time of recording of the 1st motion. Respondent no.2 backed out of the compromise when the case was fixed for recording the second motion. Respondent no.2 insisted that she wanted to live as wife with petitioner no.1. Petitioner no.1 refused to live with respondent no.2. Petitioner no.1 requested the Court that the amount paid by him should be returned to him. The Additional District Judge, Patiala dismissed the petition as both the parties did not give their consent. In the same order, it held that there was no provision under the Hindu Marriage Act for returning of the amount.

7. The present petition is for quashing the FIR. It was pleaded that another FIR was registered in Ambala but it had been cancelled by the police subsequently.

8. Notice of motion was issued. Respondent no.1 had filed the reply and pleaded that challan had been presented in FIR No.13 and charge had been framed and the case was fixed for prosecution evidence. It was also submitted that FIR No.129 was registered on 23.07.2013 at Ambala and they had sent a cancellation report for approval.

9. Respondent no.2 in its reply had submitted that the parents of petitioner no.1 as well as respondent no.2 were closely related. It was pleaded that petitioner no.1 and his maternal uncle (petitioner no.3) had quarrelled with the father of respondent no.2 with the result that a case was registered on 05.09.2011 under Sections 427, 323, 341, 506, 34 IPC.

10. It was pleaded that FIR no.13 was registered against petitioners no.1 & 2 and other family members i.e. brother-in-law, sister-in-law, Nanad and maternal uncle. It was pleaded that two miscellaneous petitions were filed for quashing the FIR on the basis of compromise but since petitioner no.1 and his uncle had violated the agreement by beating the younger sister of respondent no.2, FIR No.129 was registered on 23.07.2013. It was pleaded that both the petitions were withdrawn on 20.01.2014.

11. It was pleaded that the maternal uncle of petitioner no.1 had violated the agreement by beating the younger sister of respondent no.2 and the terms of the agreement had been violated. It was argued that under the agreement the near relatives of both the parties were not to cause any embarrassment or nuisance to any of the parties and as there was a violation, the settlement had come to an end. It was admitted that a draft of Rs.4.5 lacs had been handed over to them. It was pleaded that Rs.5 lacs had not been paid and the jewellery amount had not been returned. It was pleaded that the amount paid by petitioner no.1, had been put in a fixed deposit in the name of the minor daughter.

12. The case had been adjourned few times to enable the parties to settle their disputes but could not be sorted out. Respondent no.2 was not ready even to return the amount paid by the petitioner no.1.

13. I have heard both the sides.

14. The counsel for the petitioners had contended that a compromise had been effected and as a step in that direction, the parties had filed a joint petition under Section 13-B of the Hindu Marriage Act seeking divorce on mutual consent and the first statement had been recorded and a draft of Rs.4.5 lacs was handed over to respondent no.2 but on the second motion respondent no.2 backed out of the statement and instead told the Court that she wanted to live with the petitioner no.1. It was

urged that statement Annexure P-6 was given by respondent no.2 on 13.02.2014 and the FIR registered on 23.07.2013 had been cancelled and in this regard the information collected by them was Annexure P-9. It was urged that when respondent no.2 had refused to make the statement before the Court, the petitioners had asked for the return of the amount which was refused and has not been returned till date. It was urged that when the parties had come to a settlement, she was obliged to comply with the agreement. It was urged that the allegations against the petitioners stood condoned when respondent no.2 expressed her wish to live with petitioner no.1. It was urged that the truth was that they were now asking for Rs.15 lacs to settle the dispute. Reliance was placed upon ***Ruchi Agarwal Vs. Amit Kumar Agarwal 2004(4) RCR (Criminal) 949, Sanjeev Nagpal and others Vs. State and another 147 (2008) DLT 498*** and ***Rajesh and others Vs. State of Haryana and others in CRM-M No.35671 of 2010, decided on 18.02.2013 (P&H).***

15. The submission on the other hand was that there had been violation of the terms of the settlement as the maternal uncle of petitioner no.1 had attacked the sister of respondent no.2 and FIR was registered and the case has not been cancelled.

16. In the compromise, both the parties had agreed to withdraw all the civil and criminal cases pending against each other. Pursuant to the agreement, a petition under Section 13-B

of the Hindu Marriage Act had been filed. It is not disputed that as was agreed, a sum of Rs.4.5 lacs by way of demand draft had been handed over to respondent no.2 on the 1st motion. On the date fixed for the 2nd motion, both the parties had appeared but respondent no.2 backed out of the settlement and made a statement that she wanted to live with petitioner no.1. She did not even want to give back the money which was paid by the husband. She insisted that the money would remain with her.

17. It is not disputed that the settlement had been effected between the parties out of their free will and was voluntary. It was respondent no.2 who backed out at the 2nd motion. The plea raised is that there has been a violation of the settlement and the maternal uncle of petitioner no.1 had inflicted injuries on sister of respondent no.2. As per the information taken by the petitioners under the R.T.I. Act, the FIR had been cancelled.

18. Respondent no.2 Inderveer Kaur had made a statement before the District Judge on 23.05.2013 that she would withdraw all the cases pending in any Court between them. The parties had made a statement that there were temperamental differences between them. Respondent no.2 does not want to return the amount or withdraw the FIR, despite the compromise. In ***Ruchi Agarwal's*** case (supra) the Hon'ble Apex Court had held as under:-

"8. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where Section 125 Cr.P.C. proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

9. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered

in Police Station, Bilaspur, (Distt.Rampur) filed under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of."

. "There is no quarrel with the proposition of law explaining the powers of High Courts under Section 482 Cr.P.C. as described in the aforesaid two judgments. At the same time, it cannot be denied that if the High Court is of the opinion that the proceedings are misuse and abuse of the process of law, High Court has inherent power to quash the same. [In State of Haryana v. Bhajan Lal-AIR 1992 SC 604](#), the Hon'ble Supreme Court discussed in detail the ambit and scope of High Courts' power under Section 482 of the Cr.P.C. and summarised the position by mentioning as many as seven principles and principle No. 7 is relevant for our purposes which would be applicable in the instant case. The present case is squarely covered by the aforesaid principles. I am also persuaded by the two recent judgments of the Hon'ble Supreme Court in the case of Ruchi Agarwal Vs. Amit Kumar Agrawal and Others -

(2005) 3 SCC 299 and Mohd. Shamim and Others Vs. Nahid Begum (Smt) and Another - (2005) 3 SCC 302 for taking this view. Consequently, summoning order dated 7th October, 2004 is quashed and the complaint filed by the respondent is dismissed. No cost."

16. Respondent no.2 had received part of the amount and there was no reason for her not to honour the undertaking and commitment made before the Court. The terms of compromise were agreed and were stated before the Court. Having obtained the draft and accepting the compromise, she cannot now resile

from her statement and prosecute the petitioners. It would be unfair now to put the petitioners to trial for the offences. Respondent no.2 has taken advantage of the compromise. She failed to return the money. She was given the opportunity. The conduct of respondent no.2 is such that it is leading to an abuse of the process of the Court. The Criminal proceedings on the basis of this complaint cannot be allowed to continue against the petitioners. To do complete justice, the present petition is allowed. The proceedings in FIR No.13 dated 19.06.2012, registered under Sections 406/498-A IPC, pending before the Magistrate and all subsequent proceedings arising there from are hereby quashed.

(ANITA CHAUDHRY)
JUDGE

25.05.2015
'Sunil Sehgal'