

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2948-2012 (O&M)
Date of decision: 13.08.2015

Raj Kumar and ors.

... Petitioners

Vs.

State of Punjab and anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. C.L. Pawar, Advocate
for the petitioners.

Mr. Daljit Singh Virk, AAG, Punjab.

Mr. Vivek Goel, Advocate
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Petitioners, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seek quashing of impugned FIR No.117 dated 11.07.2007 (Annexure P-1) under Sections 406, 498-A of Indian Penal Code ('IPC' for short), registered at Police Station City Nawanshahar, District S.B.S. Nagar and all the consequential proceedings arising therefrom.

Notice of motion was issued vide order dated 29.02.2012.

Thereafter vide order dated 23.07.2012, parties were directed to appear before

the learned trial Court on 30.07.2012 for getting their statements recorded with regard to the compromise and the learned trial Court was directed to furnish its report to this Court. When respondent No.2-complainant did not appear before the learned trial Court, it was ordered by this Court on 28.09.2012 that in case the learned trial Court finds that respondent No.2-complainant was evading appearance, she can be summoned by issuing bailable warrants. In case respondent No.2-complainant does not appear on the next date of hearing before the learned trial Court, it will be open to the learned trial Court to exempt the personal appearance of any of the petitioners, if an application is filed.

On the next date of hearing i.e. 13.12.2012, it was informed by learned State counsel that warrants were issued against Manjit Kaur, complainant-respondent No.2 for appearance on 19.01.2013 before the learned trial Court. When the case came up for hearing on 22.02.2013, following order was passed by this Court: -

“It appears that respondent No.2 is bent upon to play mischief and is playing hide and seek with the Court and is not coming forward to state whether the matter has been compromised or not.

Fresh notice be issued to respondent No.2, for 02.12.2013.

Meanwhile, further proceedings against the petitioners will remain stayed and they would not be required to appear before the trial Court till next date of hearing.”

In compliance of the abovesaid order, learned counsel for respondent No.2-complainant put appearance and sought time. On the next

three dates, none appeared on behalf of respondent No.2 and finally on 24.04.2015, learned counsel for respondent-wife sought time to get clear instructions as to whether she agrees to the compromise arrived at between the parties. Consequently, he made a statement on 03.08.2015 that respondent No.2-complainant does not agree to the terms of compromise, alleging that petitioners were also not honouring the terms of compromise.

Learned counsel for the petitioner submits that keeping in view the peculiar facts and circumstances of the case, complainant/wife-respondent No.2 has been glaringly misusing the process of Court. She arrived at an amicable settlement by way of compromise dated 16.12.2011 (Annexure P-2). She received the agreed amount towards full and final settlement. Thereafter, she submitted a sworn affidavit dated 16.12.2011 (Annexure P-3).

After receiving the agreed amount towards permanent alimony, respondent/wife-complainant performed her second marriage on 04.05.2015 with one Harmesh Lal son of Sh. Arjan Dass. Copy of the marriage certificate dated 19.05.2015 issued by the Registrar of Marriages, Nawanshahr (Shahid Bhagat Singh Nagar) filed before this Court is available on the record as Annexure A-2. He concluded by submitting that in such a situation, continuation of the criminal proceedings arising out of the impugned FIR would amount to abuse of process of Court and the same are liable to be quashed. He prays for allowing the present petition.

On the other hand, learned counsel for the State submits that no such compromise was brought to the notice of the investigating agency because of which the impugned FIR is not liable to be quashed. Similarly, learned counsel for the complainant opposes the present petition contending

that since the petitioners were not honouring the terms of compromise, complainant-wife has also backed out from the same, because of which the present petition is liable to be dismissed.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar fact situation of the case, noticed hereinabove, instant one has been found to be a fit case warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

A bare reading of the abovesaid peculiar facts and circumstances of the case goes to show that complainant/wife-respondent No.2 has not been found to be a bonafide litigant. She has miscondacted herself to such an extent that she exposed herself to be an unreliable person. Firstly, she has entered into the compromise (Annexure P-2) with open eyes and put her signatures thereon, after understanding the terms and conditions thereof. Secondly, she submitted her sworn affidavit (Annexure P-3) dated 16.12.2011, clearly admitting therein that she has received the amount of permanent alimony.

However, later on she turned dishonest and had been avoiding her appearance before the learned trial Court for getting her statement recorded, even after passing numerous orders by this Court. Having said that, this Court feels no hesitation to conclude that complainant/wife-respondent No.2 has not shown any respect for law, as well. Thus, the impugned FIR as well as the criminal proceedings arising therefrom would certainly amount to abuse of

process of law and the same are liable to be quashed.

Another important development that has taken place and also speaks volumes about the misconduct of complainant/wife-respondent No.2 Manjit Kaur, is that she has performed her second marriage on 04.05.2015 with one Harmesh Lal son of Arjan Dass which is clear from Annexure A-2-marriage certificate issued by the Registrar of Marriages, Nawanshahar (SBS Nagar). Interestingly, complainant-wife has changed her name from Manjit Kaur to Manjit Rani which is so recorded in the marriage certificate (Annexure A-2). She had been showing disrespect to the justice delivery system for more than three long years, while not appearing in the Court despite issuance of bailable warrants to secure her presence.

She was bent upon to play mischief and was playing hide and seek with the Court, while not coming forward to get her statement recorded, whether the matter had been compromised between the parties or not. In this view of the matter, it can be safely concluded that allowing the criminal proceedings arising out of the impugned FIR to continue, would amount to further abuse of process of Court which will serve no purpose except wastage of valuable time of the Court. Thus, the impugned FIR is liable to be quashed, for this reason also.

During the course of hearing, when a pointed question was put to learned counsel for the complainant as to how the petitioners have backed out from the terms of compromise, he had no answer and rightly so, because the petitioners neither intended to back out nor they actually backed out from any of the terms of compromise. It was only the complainant/wife-respondent No.2 Manjit Kaur who backed out from the terms of compromise, because of

her malafide intention with a view to wreck her vengeance against the petitioners, by putting them to maximum harassment. Allowing to continue criminal proceedings, at the instance of such a complainant-wife, like respondent No.2 in the present case, will cause miscarriage of justice.

The abovesaid view taken by this Court also finds support from the following judgments: -

1. ***Ruchi Aggarwal Vs. Amit Kumar Aggarwal, 2005 (3) SCC 299. (Supreme Court)***
2. ***Mohd. Shamim Vs. Smt. Nahid Begum, 2005 (3) SCC 302. (Supreme Court)***
3. ***Purshotam Gupta and ors. Vs. State and anr., 2008 (2) RCR (Crl.) 564. (Delhi High Court)***
4. ***Rajesh and ors. Vs. State and anr., 2008 (3) JCC 1536. (Delhi High Court)***
5. ***Sanjeev Nagpal Vs. State, 2007 (4) JCC 2909. (Delhi High Court).***
6. ***Nirmal Sachdeva Vs. State of Haryana and another, 2008 (2) Crl. C.C. 865.***

Reverting back to the peculiar fact situation obtaining in the present case and respectfully following the law laid down by the Hon'ble Supreme Court as well as Delhi High Court and this Court, in the cases referred to hereinabove, it is unhesitatingly held that the impugned FIR as well as the criminal proceedings arising therefrom, is an apparent misuse of process of Court and the same cannot be sustained.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the

considered view that present petition deserves to be allowed. Consequently, FIR No.117 dated 11.07.2007 (Annexure P-1) under Sections 406, 498-A IPC, registered at Police Station City Nawanshahar, District S.B.S. Nagar and all the consequential criminal proceedings arising therefrom are ordered to be quashed, however, only qua the petitioners.

Resultantly, with the abovesaid observations made, present petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

13.08.2015
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