

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

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CRM-M No. 29133 of 2014 (O&M)

Date of Decision: 12.8.2015

Karan Nischal and others

.....Petitioners

Vs

State of Punjab and another

.....Respondents

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

Present: Mr. Manvinder Singh Sidhu, Advocate,
for the petitioners.

Mr.Arshdeep S.Kler, DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

1. Prayer in this petition is for quashing of FIR No. 27 dated 26.1.2014 registered under Sections 406, 498-A, 377 IPC at Police Station A-Division, Amritsar on the basis of oral compromise.

2. Marriage of petitioner No.1 was solemnised with respondent No.2 on 19.11.2012. No child took birth from this wedlock. The couple could not pull on well with matrimonial ties and differences arose between them. FIR came to be registered at the instance of respondent No.2.

3. After registration of the case, petitioner No.1 sought anticipatory bail from this Court by filing CRM-M No. 15213 of 2014 as his prayer was declined by the Court of Session, though

prayer qua others was accepted. This Court, while granting anticipatory bail to petitioner No.1, referred the matter to Mediation and Conciliation Centre of this Court for amicable settlement. Before Mediation and Conciliation Centre, the matter was almost settled subject to difference in the amount of permanent alimony.

4. On 9.6.2014, the matter again came up for consideration before this Court and with the intervention of this Court and the efforts of both the counsel for the parties, the matter was amicably settled. Respondent No.2 opted to part ways from petitioner No.1 on receipt of lump sum alimony and cost of articles to be recovered from petitioner No.1. Total amount of ₹ 7,00,000/- was settled to be paid at the time of filing of petition under Section 13-B of the Hindu Marriage Act. Remaining amount of ₹ 6,00,000/- was agreed to be paid at the time of passing of final decree under Section 13-B of the Hindu Marriage Act. In order to enable petitioner No.1 to comply with the terms of settlement, the case was adjourned to 18.8.2014.

5. In compliance to the terms and conditions of compromise, petitioner No.1 and respondent No.2 filed petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by way of decree of divorce with mutual consent. The matter came up for hearing before the District Judge, Amritsar. In due course, petitioner No.1 appeared before District Judge,

Amritsar and made statement in terms of compromise. Respondent No.2 also appeared before the District Judge and made her statement in terms of compromise effected between them and also admitted factum of receiving pay order No.013228 dated 21.7.2014 in the sum of ₹ 7,00,000/- from petitioner No.1.

6. After recording of statements of both the parties, District Judge, Amritsar adjourned the case for second motion. Now application bearing CRM No. 6615 of 2015 in CRM-M no. 29133 of 2014 has been filed seeking production of Judgement dated 16.2.2015 passed by District Judge, Amritsar, granting decree of divorce by way of mutual consent. Certified copy of judgment dated 16.2.2015 has been placed on record as Annexure A-1 with the aforesaid application

7. Para Nos. 3,5,7 and 8 of the judgment dated 16.2.2015 are relevant to be quoted here as under:-

“3. On presentation of petition in the Court on 24-07-2014, the statements of petitioners were recorded, wherein, they reiterated their stand, taken in the petition, contending that all the claims regarding maintenance and permanent alimony of past, present and future, were mutually settled inasmuch as petitioner No.1 agreed to pay a sum of Rs.13 lacs to petitioner No.2 in that regard. Out of such amount, a sum of Rs.7,00,000/- was paid by him to petitioner No.2 in the form of a pay order while the

remaining amount of Rs.6,00,000/- was agreed to be paid by him to petitioner No.2 at the time of recording of their statements on second motion.

5. However, the petitioners, have appeared in the court today, and in the statements, got recorded by them, have stated that during the intervening period of six months, they have not been able to reside together and to resolve their differences and that their marriage, has broken down completely, therefore, it be dissolved by a decree of divorce by mutual consent. A sum of Rs.6,00,000/- in the form of a bank draft was paid by petitioner No.1 to petitioner No.2 in terms of their earlier statements.

7. It transpires that parties belong to Hindu religion and a legal and valid marriage between them, had taken place on 19-11-2012 according to the Hindu rites and ceremonies at Amritsar, and as such, relationship of husband and wife, is there between them. The parties lived together as husband and wife but no child was born to them out of this marriage. It further comes out that due to temperamental differences between the petitioners, they have not been able to reside together and their marriage, has broken down irretrievably with no chances of their residing together as husband and wife in cordial and congenial atmosphere. Marriage having taken place between the parties on 19-11-2012 and the petition was filed on 24-07-2014 i.e. after a period of more than one

year, therefore, bar of Section 14 of the Act, does not come into play. It comes out that averments in the petition; are true. I do not see any reason, to deny the relief, prayed for. It comes out that the parties are residing separately for a period of more than one year preceding the institution of the petition, which, was instituted on 24-07-2014.

8. Therefore, the petition, is allowed and marriage between the petitioners, is dissolved by a decree of divorce by mutual consent w.e.f today i.e. February 16, 2015. There is no order as to costs. Decree sheet be drawn and file be consigned to the record room.”

8. Notice of motion was issued in this case on 29.8.2014. Office report dated 13.2.2015 reveals that respondent No.2 has refused to accept notice. Perusal of various orders on record reveals that respondent No.2 never appeared in Court despite issuance of directions by the Court to be present in Court.

9. Having received the total amount of permanent alimony and having suffered statements before the matrimonial Court for grant of decree of divorce by mutual consent, it appears that respondent No.2 is not interested in pursuing the case any more. According to terms and conditions, total amount of ₹ 13,00,000/- has already been paid by petitioner No.1 to respondent No.2. The said fact has also been admitted by

respondent No.2 in matrimonial proceedings. Divorce has already been granted. Respondent No.2 had undertaken that she would not contest the criminal case in question against petitioner No.1 and his family members. Despite her undertaking that she will appear in the Court, she has failed to appear for making statement. This Court can take judicial notice of it and cannot allow her to take benefit out of her non appearance for the purposes of quashing the FIR. Hon'ble Apex Court in **2015(1) RCR (Crl.) 249 Shlok Bhardwaj vs. Renuka and others** has held that once the matter was settled and given effect in terms of granting divorce then no further dispute survives, even though it was not expressly recorded in the order.

10. In view of aforesaid, I am of the considered view that inherent powers of this Court in terms of Section 482 Cr.P.C. can be invoked in quashing the FIR along with entire subsequent proceedings, if any undertaken by the Court, in order to prevent abuse of process of law and to achieve ends of justice.

11. Hence, this petition is allowed. Resultantly, FIR No. 27 dated 26.1.2014 registered under Sections 406, 498-A, 377 IPC at Police Station A-Division, Amritsar and all the subsequent proceedings arising therefrom, are quashed.

August 12, 2015

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(RAJ MOHAN SINGH)
JUDGE