

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-31448-2014

Date of decision : 12.01.2015

Darbara Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Malkeet Singh, Advocate
for the petitioners.

Mr.Sandeep Kumar Bansal, AAG, Punjab.

Mr.Ashwani Bakshi, Advocate
for respondent No.2.

REKHA MITTAL, J.

By invoking the provisions of Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.'), the petitioners have prayed for quashing FIR No.21 dated 08.04.2011 registered in Police Station Lambra for offence punishable under Sections 406 and 498-A of the Indian Penal Code (in short 'IPC') and proceedings emanating therefrom.

Counsel for the petitioners contends that entire dispute between Baljit Kaur, respondent No.2-complainant and petitioner Darbara Singh was settled by way of an agreement dated 25.05.2011 with the intervention of the Mediator to whom the matter was referred by the Additional Sessions Judge, Jalandhar. In pursuance of the said agreement, the complainant has already received the entire amount of Rs.1,70,000/- agreed to be paid in respect of permanent alimony. The factum of receipt of money as per agreement dated

25.05.2011 was duly acknowledged by the respondent at the time of disposal of application for grant of pre-arrest bail filed by Darbara Singh and another. The respondent furnished an affidavit dated 04.07.2011 (Annexure P4) confirming the terms and conditions of the agreement dated 25.05.2011 and acknowledging receipt of full and final consideration, dowry articles / istridhan from the accused party. Not only this, the respondent filed a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage in May 2011 which was allowed in her favour without any contest by her husband Kulwinder Singh. It is argued with vehemence that Kulwinder Singh did not contest the divorce proceedings in view of compromise/agreement dated 25.05.2011 wherein as per clause 3, it was agreed that the complainant party will file a divorce petition and the accused party will co-operate and will give statements in the said petition. As the petitioners have duly complied with all the terms and conditions incorporated in the agreement / settlement dated 25.05.2011, refusal of respondent No.2 to come forward and make a statement agreeing to quashing of criminal proceedings on the basis of compromise is nothing but an abuse and misuse of process of law. It is argued that in the circumstances aforesaid, respondent No.2 cannot be allowed to continue with the criminal proceedings. In support of his contentions, he has relied upon judgment of Hon'ble the Supreme Court of India ***Ruchi Agarwal Vs. Amit Kumar Agarwal & Others, 2004 (4) RCR (Crl.) 949(SC).***

Counsel for the contesting respondent has submitted that respondent No.2 has denied the alleged settlement between the parties and she has already been examined in the criminal proceedings pending before the trial Court. It is further submitted that in view of the stand taken by respondent No.2 before the trial Court as well as her reply, it may be left to be

decided by the trial Court if any such settlement was arrived at, if so, affect thereof on the pending proceedings.

I have heard counsel for the parties and perused the records.

Before dealing with the rival submissions made by counsel for the parties, it is appropriate to note that Hon'ble the Supreme Court of India in *Ruchi Agarwal's case (supra)* quashed proceedings arising from the criminal case registered under Sections 498-A, 323 and 406 IPC and Section 3 & 4 of the Dowry Prohibition Act keeping in view that dispute between the parties was settled by way of compromise and the appellant had already derived benefit therefrom i.e. the respondent-husband had given her a consent decree for divorce and held that we are of the opinion that the appellant having received the relief, she wanted without contest on the basis of terms of the compromise, we cannot now accept argument of counsel for the appellant that the compromise is the result of duress and coercion.

Counsel for the contesting respondent has not disputed that during pendency of proceedings before the Court of additional Sessions Judge, Jalandhar for grant of pre-arrest bail to Darbara Singh and others, the parties were relegated to the Mediation Centre, Jalandhar for reconciliation of dispute with the intervention of the Mediator. Perusal of the settlement deed dated 25.05.2011 would evident that the complainant has agreed to settle the dispute as per the terms and conditions incorporated in the agreement dated 25.05.2011. Counsel for the contesting respondent has not disputed that respondent No.2 has already received the amount of Rs.1,70,000/- agreed to be paid to her towards permanent alimony. During course of hearing of the application for pre-arrest bail of Darbara Singh and others, counsel representing the complainant in those proceedings conceded to the fact of

compromise and receipt of settled amount and further raised no objection of the prayer of the accused for pre-arrest bail being accepted. Counsel for respondent No.2 has also not disputed that she furnished a duly sworn affidavit (Annexure P4) acknowledging and affirming the factum of compromise, receipt of the settled amount, dowry articles and having no objection if the FIR in question is cancelled by police of Police Station Lambra. There is no denial that the complainant initiated proceedings under Section 13 of the Hindu Marriage Act for dissolution of marriage and in the said case, Kulwinder Singh (husband) did not contest the proceedings and the complainant got an ex-parte decree of divorce on 22.03.2012 passed by the Additional District Judge, Jalandhar. Once the petitioners have complied with the terms and conditions of the compromise without any default, respondent No.2 cannot be allowed to take a somersault and wriggle out of her promise of not contesting quashing of the criminal proceedings. In case respondent No.2 is allowed to adopt such a recourse in breach of the terms and conditions of the settlement duly acknowledged before a competent Court of law, faith of the people in mediation proceedings would be shaken and it would be a serious jolt /set back to the process of mediation evolved with a view to speedy settlement of disputes pending in the Court as well as at pre-litigative stage.

Keeping in view the facts and in the circumstances obtaining in the present case when examined in the light of judgment of Hon'ble the Supreme Court of India in *Ruchi Agarwal's case (supra)*, I have no hesitation to conclude that continuation of criminal proceedings in the afore-discussed circumstances would be nothing short of misuse and abuse of process of Court which cannot be allowed to continue.

For the reasons aforesaid, the petition is allowed, FIR No.21 dated 08.04.2011 registered in Police Station Lambra for offence punishable under Sections 406 and 498-A IPC and proceedings emanating therefrom are ordered to be quashed.

(REKHA MITTAL)
JUDGE

January 12, 2015.

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