

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-31927-2014

Date of decision: 18.09.2015

Baljit Kaur Dhanoa

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Sunil Chadha,Senior Advocate with
Mr.M.S.Atwal, Advocate,
for the petitioner.
Mr.J.S.Sekhon,Assistant Advocate
General, Punjab
Mr.D.S.Pheruman,Advocate for
respondent No.2.

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) for quashing of FIR No. 153 dated 14.10.2008 (Annexure P1) under Sections 406, 498-A and 494 of the Indian Penal Code,1860 ('IPC' for short) as well as criminal complaint No. 59 dated 27.5.2009 (Annexure P2) under Sections 406, 494, 498-A and 34 IPC registered at Police Station Sidhwan Bet, Ludhiana and all subsequent proceedings arising therefrom.

Learned senior counsel for the petitioner has submitted

that petitioner is the wife of accused-Jasbir Singh Sidhu. Parties had amicably settled their dispute. Jasbir Singh Sidhu and respondent No.2 had got a decree of divorce on the basis of mutual consent. As per the compromise effected between the parties, respondent No.2 had agreed that she would have no objection if the FIR in question is ordered to be quashed. FIR in question was quashed by this Court qua co-accused of the petitioner on the basis of compromise.

Learned counsel for respondent No.2, on the other hand, has opposed the petition and has submitted that, in fact, no compromise had been effected between the petitioner and respondent No.2. Hence, petition was liable to be dismissed.

It has been held by the Apex Court in 'Ruchika Agarwal Vs. Amit Kumar Agrawal, 2004(4) RCR (Criminal) 949' as under:-

“Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the abovementioned 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 Cr.P.C. 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.”

In the present case, Jasbir Singh Sidhu had got married to respondent No.2 on 5.5.2003. Two children were born to them out of the said wedlock. However, the matrimonial dispute arose between the couple which resulted in lodging of the FIR in question.

As per the prosecution story, petitioner is the second wife of Jasbir Singh Sidhu. Annexure P4 is the compromise effected between the parties on 22.7.2013.

Para 8 of the said compromise reads as under:-

“That the first party also agree to get the FIR No, 153/08 quashed as and which is at time filed after the decision of divorce petition in the Hon'ble High Court by Baljeet Kaur daughter of Chamkaur Singh resident of Sidhwan Bet who is not now present in India.”

Annexure P5 is the affidavit sworn by respondent No.2.

Para 12 of the said affidavit reads as under:-

“That the deponent also agree to get the FIR No.153/08 quashed as and when the same is filed by Baljeet Kaur daughter of Chamkaur Singh resident of Sidhwan Bet who has gone abroad but after the grant of divorce by the court of Jagraon.”

In pursuance to the said compromise, Jasbir Singh Sidhu and respondent No.2 moved a petition under Section 13-B of the Hindu Marriage act, 1955 seeking a decree of divorce on the basis of mutual consent. Annexure P6 is the judgment and decree dated 6.2.2014 whereby marriage between Jasbir Singh Sidhu and Harvinder Kaur, respondent No.2 was dissolved on the basis of mutual consent. Annexure P7 is the copy of the order dated 6.5.2014 whereby petition filed by co-accused Sarbjit Kaur, Jaswant Kaur, Manjit Singh, Jasvir Singh and Chamkaur Singh seeking quashing of the FIR, on the basis of compromise, was allowed qua them.

Thus, it is evident that the parties have amicably settled their matrimonial discord. A perusal of the judgment (Annexure P6) reveals that Jasbir Singh Sidhu had paid in all ₹60,000,00/- to respondent No.2 towards full and final settlement of her claim as well as for the minor children. It is evident from the terms of the compromise as well as the affidavit of respondent No.2- Annexure P5 that it had been agreed by respondent No.2 that she will have no objection qua quashing of the FIR against the petitioner. Thus, it is

evident that, although, the matter had been duly compromised between the parties but now respondent No.2 is trying to back out from the terms of the compromise qua the petitioner after receiving the agreed amount from Jasbir Singh Sidhu. FIR has already been quashed by this Court qua other accused.

Hence, in the facts and circumstances of the present case, continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No. 153 dated 14.10.2008 (Annexure P1) under Sections 406, 498-A and 494 IPC as well as Criminal Complaint No. 59 dated 27.5.2009 (Annexure P2) under Sections 406, 494, 498-A, 34 IPC registered at Police Station Sidhwan Bet, Ludhiana and all subsequent proceedings, arising therefrom, qua the petitioner are quashed.

**(Sabina)
Judge**

September 18, 2015
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