

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-38285 of 2014
Date of Decision : 29.9.2015

Sangeeta and another

.....Petitioners

Vs.

Dinesh Rani and another

.....Respondents

CRM No.M-41695 of 2014

Ramesh Kumar Sharma and another

.....Petitioner

Vs.

Dinesh Rani and another

.....Respondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr.D.K. Sharma, Advocate for the petitioners.
Mr. Vikas Mehsempuri, Advocate for respondent no.1.
Mr. D.S. Virk, AAG, Punjab.

...

1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

These two identical petitions filed under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), for quashing of common complaint no.56 dated 16.11.2011 under Sections 406/498-A of the Indian Penal Code ('IPC' for short), as well as the consequential criminal proceedings arising therefrom, are being decided together vide this common order.

When these cases came up for hearing on 23.3.2015, learned counsel for the parties were ad-idem that there were chances of an amicable settlement and they jointly prayed for referring these matters to the Mediation and

Conciliation Centre. Accordingly, both these cases were referred to the Mediation and Conciliation Centre of this court, by passing the following order :-

“ Learned counsel for the petitioners as well as learned counsel for the complainant are ad-idem that there are chances of amicable settlement between the parties. They jointly pray for referring the matter to the Mediation and Conciliation Centre, to give an opportunity to the parties to arrive at an amicable settlement.

In view of the above, let both these cases be placed before the Mediation and Conciliation Centre.

Parties are directed to appear before the Mediation and Conciliation Centre on 6.4.2015.

A photostat copy of this order be placed on the file of connected case.”

Learned Mediator made very many sincere efforts, which brought fruits and the parties came to an amicable settlement by way of settlement agreement dated 24.8.2015 running into 5 pages, which has been duly signed by both the parties. Total agreed amount towards the permanent alimony, to be paid by the petitioners to the complainant-respondent wife, was arrived at ₹ 3.00 lacs. As per the terms of settlement ₹ 1.00 lac was agreed to be paid by the petitioners, in the shape of bank draft to the respondent-wife, on or before 10.9.2015 and the remaining amount of ₹ 2.00 lacs was agreed to be paid on or before 30.9.2015. Accordingly, the case was adjourned by the Mediator for 10.9.2015 for payment of ₹ 1.00 lac by the petitioners to the respondent-complainant.

When the case came up before the Mediator on 10.9.2015, a statement was made by Ramesh Kumar Sharma-petitioner that since the petitioners could not arrange the amount of ₹ 1.00 lac, they would pay the same to the complainant-respondent, before the court at the time of hearing. Accordingly, the Mediator recorded the following proceedings on 10.9.2015 :-

“Mediation Case No.405 of 2015 in
CRM No.M-38285 and M-41695 of 2014

Present : Both the parties.

In terms of settlement dated 24.8.2015 the first party was to make a payment of ₹ 1,00,000/- to the second party. However, Mr. Ramesh Kumar Sharma father of Mohit Sharma-Husband and Father-in-Law of Dinesh Rani expressed his inability to pay any amount today as he could not arrange it. He has made a statement today and has agreed that he will make the payment of ₹ 1,00,000/- in the Court when the present matter will come up for hearing. The second party has agreed to accept the money in the court.

In view of the above, the matter stand settled. As such, the file be sent back to the Hon'ble court for further adjudication.

Ramesh Kumar Sharma (Father-in-law) Sd/-
Dinesh Rani-complainant Sd/-

10.9.2015 Sd/
(Aarti Gupta)
Mediator”

In view of the above said proceedings recorded by the Mediation and Conciliation Centre of this court, the case was put up for hearing before the court. Learned counsel for the petitioners in both these petitions, at the very outset, fairly stated that petitioners have expressed their inability to pay the agreed amount to the complainant-respondent and sought to argue the case on

merits.

However, learned counsel for the complainant-respondent no.1 submits that the complainant still stands by the terms and conditions of settlement dated 24.8.2015 arrived at between the parties. He further submits that petitioners do not deserve to be heard on merits, as they have misconduted themselves by misusing the process of court and taking the system for a ride. He prays for dismissal of both these petitions.

Mutual settlement arrived at between the parties by way of settlement agreement dated 24.8.2015 is a matter of judicial record. It were the petitioners themselves, who through their counsel, offered to enter into a dialogue with the complainant for arriving at an amicable settlement. This offer made by the petitioners was graciously accepted by the complainant. Accordingly, on the joint request made by learned counsel for the parties, both these cases were referred to the Mediation and Conciliation Centre, to give an opportunity to the parties to arrive at an amicable settlement by above said order dated 23.3.2015.

Many rounds of mediation took place between the parties on 6.4.2015, 27.4.2015, 7.5.2015, 2.7.2015, 3.7.2015. Finally, parties arrived at an amicable settlement by way of settlement agreement dated 24.8.2015 on the basis of detailed terms and conditions thereof. Both the parties are signatory to the settlement agreement dated 24.8.2015. Petitioners gave an undertaking to make the payment to the complainant-respondent towards permanent alimony, in terms of the settlement agreement. However, they failed in making the payment, despite having been granted more than one opportunities and sufficient time.

During the course of hearing, when a pointed question was put to learned counsel for the petitioners, as to what was the reason for the petitioners

to back out from the mutual settlement arrived at between the parties, he had no answer and rightly so, it being a matter of record. No reason, whatsoever, is forthcoming from the petitioners, which may justify their conduct for backing out from the mutual settlement arrived at.

Having said that, this court is of the considered opinion that petitioners are not bonafide litigants. They have taken the justice delivery system for a ride. A dishonest litigant, who does not show any respect for the law, is also not entitled for any kind of sympathy from the court, thus, the petitioners have not been found entitled to invoke the inherent jurisdiction of this court under Section 482 Cr.P.C. It is the settled proposition of law that a person, who seeks equity from a court of law, must come to the court with clean hands and should also be ready to do equity with the other side, so as to entitle himself for an equitable relief, at the hands of the court. However, petitioners have miserably failed in this regard and made themselves dis-entitled for any kind of relief, muchless the discretionary relief at the hands of this court, while exercising its inherent jurisdiction.

Further, it is not even the argued case on behalf of the petitioners that inspite of treating the uncontroverted allegations levelled against them in the impugned complaint, to be true on their face value, no offence would be made out against them. Further, learned counsel for the petitioners also failed to point out any jurisdictional error or patent illegality either in the impugned summoning order or the revisional order passed by the learned courts below, so as to enable this court to interfere, even on merits, in exercise of its inherent jurisdiction under Section 482 Cr.P.C. No prejudice of any kind, whatsoever, has been shown to have been caused to the petitioners, therefore, it can be safely concluded that the impugned complaint, summoning order as well as the

impugned revisional order deserve to be upheld, for this reason also.

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 both these petitions have been found to be wholly misconceived, bereft of merit and without any substance, thus, these must fail. No case for interference has been made out.

Resultantly, with the above said observations made, both these petitions stand dismissed, however, with no order as to costs.

29.9.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE