

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM NO. M-6021 of 2014 (O&M)
DECIDED ON : JULY 29, 2015

Vijay Kumar & others

...Petitioners

versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporter of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present : Mr. Kunal Dawar, Advocate,
for the petitioners.

Mr. D.R. Singla, DAG, Haryana.

JASPAL SINGH, J. (ORAL)

Instant petition has been preferred under Section 482 Cr.P.C seeking quashing of FIR No. 126 dated 20.06.2008 under Sections 498-A, 406 and 506 IPC registered at Police Station Saran, Faridabad on the basis of compromise.

2. The marriage of petitioner No.1 was solemnized with respondent No.2 at village Dabua, Faridabad on 15.02.2006 according to Hindu rites and ceremonies. After the marriage, petitioner No.1 and respondent No.2 lived and cohabited together at Faridabad but no child was born out of the said wedlock. On account of matrimonial discord, FIR under Section 498-A, 406 and 506 IPC was registered by respondent No.2. After completion of investigation though challan has already been presented but charges have not so far been framed. After registration of FIR, parties settled their disputes and arrived at a compromise. In

pursuance to which, an application under Section 13-B of Hindu Marriage Act, 1955 (for short 'Act') was filed for dissolving the marriage by mutual consent, on January 04, 2014 before District Judge, Family Court, Faridabad. Joint statement of parties was also recorded on the day the petition under Section 13-B of the Act was presented. Similarly, joint statement of parties at the second motion has also been recorded on August 30, 2014. Accordingly, decree for dissolution of their marriage by way of mutual consent under Section 13-B of the Act was passed on August 30, 2014 (Annexure P-5).

3. Vide order dated December 01, 2014 passed by this Court, parties were directed to appear before learned Judicial Magistrate Ist Class, Faridabad to make their statements regarding the compromise as well as to seek report from the concerned court whether compromise is genuine or without any pressure or coercion. Report from learned District and Sessions Judge, Faridabad has been received, which depicts that respondent No.2 did not turn up before learned Magistrate for making her statement in compliance of order dated December 01, 2014 passed by this Court.

4. Though offences under Sections 498-A, 406 and 506 are non-compoundable but in view of law laid down by full Bench of this Court in **Kulwinder Singh & others vs. State of Punjab and another; 2007 (3) RCR (Criminal) 1052**; High Court is fully empowered to quash the proceedings under Section 482 Cr.P.C. of non-compoundable offences in case of compromise between the parties so as to secure ends of justice. Thus, it would not be congenial to create or allow a rift between them to continue after they have bridged all differences amongst them.

5. Similarly, Hon'ble Apex Court in **B.S. Joshi & others vs. State of**

Haryana and another; 2003 (2) RCR (Criminal) 888; has observed that in case of matrimonial disputes, High Court may quash the proceedings with respect to the offences under Section 498-A, 406 and 506 IPC which are non-compoundable, where parties settled their disputes, as it is the duty of court to encourage genuine settlement of matrimonial disputes as the marriage is a sacred bond, the main purpose of which is to enable the young couple to settle down in life and live peacefully.

6. Adverting to the facts of the case in hand, though a compromise has been effected between petitioner No.1 and respondent No.2 but respondent No.2 did not come forward to make statement before learned Magistrate, as per the terms of compromise. Now it is to be determined whether in the absence of statement of respondent No.2, especially in view of compromise, can FIR be quashed?

7. It is fully proved on record that compromise has been arrived at between the parties and in pursuance of which, petitioner No.1 and respondent No.2 preferred a petition under Section 13-B of the Act, which has since been decreed vide judgment dated August 30, 2014 (Annexure P-5) passed by District Judge, Family Court, Faridabad. Joint statement of parties to the petition under Section 13-B of the Act has also been placed on file. A glance at the decree of divorce as well as joint statement of the parties, makes it abundantly clear that parties have settled their dispute and have compromised the matter. Amount with regard to settlement depicted in para 8 of the compromise deed has already been received by respondent No.2. She undertook to make statement before this Court and to extend necessary cooperation as well as to sign required application and affidavit etc to support the petition for quashing of FIR.

8. In such a situation, it can be safely concluded that conduct of respondent No.2 is indicative of the fact that she is not coming forward to make statement in this petition only to harass the petitioners. Such a controversy came up for hearing before Hon'ble Apex Court in **Ruchi Agarwal vs. Amit Kumar Agarwal**; 2004 (4) RCR (Criminal) 949. It would be apposite to reproduce the relevant paragraphs:

“6. It is based on the said compromise the appellant obtained a divorce as desired by her under [Section 13\(B\)](#) of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under [Section 125](#) of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

7. “Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned 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](#). 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.

8. *In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt.Rampur) filed under [Sections 498A, 323 and 506 IPC](#) and under [Sections 3 and 4](#) of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.”*

9. In case **Mohd. Shamim vs. Smt. Nahid Begum; 2005 (1) RCR (Criminal) 697**; while relying upon Ruchi Agarwal's case (supra) criminal proceedings were quashed against husband by observing that when a party enters into a compromise and settles all the disputes and at a subsequent stage one of the parties backs out from the settlement arrived at between them, continuance of criminal proceedings would be nothing but an abuse of the process of law.

10. To the similar effect is the judgment rendered by Delhi High Court in the case of **Purshotam Gupta & others vs. State and another; 2008 (2) RCR (Criminal) 564** as well as by this Court in the case of **Ravinder Kumar Kohli & others vs. State of Punjab and another; 2011 (5) RCR (Criminal) 20**.

11. While relying upon the aforementioned decision and keeping in view

the candid admission made by respondent No.2 and totality of the circumstances, this Court is of the considered view that continuation of proceedings in the instant case is clearly an abuse of process of law.

11. Accordingly, instant petition is allowed. Consequently, FIR No. 126 dated 20.06.2008 under Sections 498-A, 406 and 506 IPC registered at Police Station Saran, Faridabad and all the subsequent proceedings arising therefrom stand quashed qua petitioners.

JULY 29, 2015
sham

(JASPAL SINGH)
JUDGE