

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-17682 of 2015 (O&M)
Date of Decision: 10.05.2016

Kulwinder Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harish Goyal, Advocate
for the petitioners.

Mr. K.S.Aulakh, AAG, Punjab.

None for respondent No. 2.

ANITA CHAUDHRY, J(ORAL)

CRM No. 14968 of 2016

Heard.

Application is allowed and Annexures P-4 to P-6 are taken on record.

Crl. Misc. No. M-17682 of 2015

1. This petition has been filed under Section 482 Cr.P.C. for quashing FIR No. 150 dated 30.8.2012 registered under Sections 406, 498-A IPC, Police Station Dera Bassi, District Sahibzada Ajit Singh Nagar (Annexure P-1) and all the consequent proceedings arising out of the same.

2. Kulwinder Singh was married to Meena Rani-respondent No. 2 in the year 2003. Differences arose between the couple and an FIR was registered in the August 2012. However,

the parties managed to arrive at a compromise. It was decided that they would dissolve their marriage and would file a petition under Section 13-B of Hindu Marriage Act, 1955 and a permanent settlement was effected and the husband was to pay ₹ 5,00,000/- to respondent No. 2 to be paid in two installments. A sum of ₹ 2,50,000/- was to be paid at the time of first motion and the balance amount at the time of second motion in the petition to be filed under Section 13-B of the Hindu Marriage Act, 1955. The parties also agreed to withdraw all criminal or civil cases including this FIR. It was also agreed that Meena Rani would not claim any further maintenance. The custody of the children was to remain with the father.

3. A petition under Section 13-B of the Hindu Marriage Act, 1955 was filed and on the first date, a sum of ₹ 2,50,000/- was paid to the wife as was agreed. On the second date, the remaining amount of ₹ 2,50,000/- was paid and the marriage was dissolved.

4. Kulwinder Singh and his parents, who were named in the FIR, filed this petition seeking quashing of the FIR.

5. Notice of this petition was given. Respondent No. 2 had put in appearance through her counsel. The parties were thereafter directed to appear before the Magistrate to get their statements recorded on 01.10.2015.

6. Report was received from the Court below that the complainant had failed to appear. It was also reported that all the petitioners were present in the Court.

7. Thereafter, petitioners had placed on record copy of the divorce decree dated 21.7.2015 and the statements recorded therein to show that Meena Rani had accepted both the

installments and had agreed to withdraw the civil and criminal cases filed by her.

8. There is no appearance on behalf of respondent No. 2 today or even on the last hearings.

9. Counsel for the petitioners contends that the compromise had been effected and as a step in that direction, a joint petition under Section 13-B of the Hindu Marriage Act, 1955 was filed and the entire payment was made and a divorce decree was passed. It was urged that the parties had come to a settlement, the complainant was obliged to comply with the settlement or should have returned the amount since she had not appeared before the Trial Court. It was urged that the allegations against the petitioners stood condoned when the settlement was effected and the amount was received.

10. Both the parties had agreed to withdraw all the civil and criminal cases. It was also agreed that the wife would not file any fresh case and she had agreed to withdraw the FIR. Pursuant to the statement, a petition under Section 13-B of the Hindu Marriage Act, 1955 was filed. Meena Rani had made a statement before the competent Court that she had received both the installments. A divorce decree was passed thereafter. The complainant has failed to appear to make the statement for withdrawal of the FIR, though, she had agreed to withdraw the FIR. The amount has also not been returned by the complainant.

11. It was not disputed by the complainant on appearance that the settlement was effected on account of undue pressure or coercion. There has been a violation of the settlement. Respondent No. 2 has not returned the amount. Having obtained the amount

and accepting the compromise, the complainant could not resile from it. It would be unfair now to put the petitioners to trial for the offence. Respondent No. 2 has taken the advantage of the compromise. The conduct of respondent No. 2 is such that it would lead to abuse of the process of the Court. The criminal proceedings on the basis of this complaint cannot be allowed to continue against the petitioners.

12. To do complete justice, this petition is allowed. FIR No. 150 dated 30.8.2012 registered under Section 406, 498-A IPC and all the subsequent proceedings arising therefrom, are hereby quashed.

**(ANITA CHAUDHRY)
JUDGE**

May 10, 2016
Gurpreet