

Crl. Misc. No. M-18389 of 2015

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-18389 of 2015

DATE OF DECISION: 27.05.2016

Rakesh Dhar Dwivedi

.....Petitioners

Versus

State of Haryana and another

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
- 2. To be referred to reporters or not? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. Vikas Cuccria, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

None for respondent No.2.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 327 dated 26.8.2011 registered under Sections 498-A, 406, 34 IPC at Police Station Sadar Gurgaon, on the basis of compromise arrived at between the parties.

The marriage between the petitioner and respondent No.2 was solemnized on 6.2.2003. Subsequently some differences arose between the parties and aforesaid FIR was registered by respondent No.2. During the pendency of the proceedings, the matter was compromised between the

parties before the Mediation and Conciliation Centre, District Courts, Gurgaon and both of them decided to part with their ways. A divorce petition under Section 13-B of the Hindu Marriage Act was filed for dissolution of marriage with mutual consent before the Family Court at Gurgaon, which was allowed.

Certain terms and conditions were settled between the parties before the Mediation and Conciliation Centre, District Courts, Gurgaon, which are as under:-

1. "That both the parties agrees that they will file petition for divorce by way of mutual consent under Section 13 B of Hindu Marriage Act, on or before, 25.4.2014.
2. That respondent has agreed to bear all the educational expenses of minor son of the parties, namely, Shivam (9) provided he is admitted in a school within NCR, at Dehradu, Simla, Nainital or Mussorie having hostel facility as per the will and responsibility of the father, till the minor is able to earn his livelihood. The child shall be kept in the hostel. During summer and winter vacations, the child shall spend $\frac{1}{2}$ of the vacations with the father and $\frac{1}{2}$ with the mother as per the convenience of the child. The father shall pick up the child from the Hostel/residence of the petitioner and after enjoying the company of the child during vacations he shall be responsible to drop the child at the hostel/residence of the petitioner. Either the parents shall have a right to visit the child in the school or hostel or they both shall be entitled to attend the Parent's Teachers Meetings of the child. Both the

parents shall be entitled to join the child on his birthday or on all major festivals as per the wish and convenience of the child.

3. It is also agreed between the parties that both the parties shall withdraw all the litigations/allegations filed by them against each other.

4. It is also agreed between the parties that wife will not be entitled for any maintenance from the husband and she will not file any execution for the maintenance allowance in any case civil/criminal.

5. That the petitioner will withdraw her case against her husband pending in the Court of Ms. Iram Hushan JMIC Gurgaon, FIR NO. 327/2011 u/s 498-A,406 IPC PS Sadar Gurgaon and she will also cooperate her husband in securing acquittal in the said case. In case the husband files a petition under section 482 Cr.P.C. for quashing the said dowry case, the wife will co-operate her husband.

6. That both the parties agreed to be bound by the terms and conditions of this settlement.”

Inspite of service, none has appeared on behalf of respondent No.2, whereas, the terms and conditions of the compromise settled before the Mediation and Conciliation Centre, District Courts, Gurgaon were duly signed by her.

Learned counsel for the petitioner contends that all the terms and conditions of the compromise have been complied with by the parties

and the petition under Section 13-B of Hindu Marriage Act has been allowed. The amount settled between the parties has also been paid to respondent No.2..

Since the dispute between the parties is matrimonial in nature and the same has been settled by way of compromise; complainant has no objection in quashing of the FIR and other proceedings, no purpose would be served in case proceedings are continued in future as it would amount to wastage of precious time of the Court. Moreover, it would not be in the interest of the parties as the complainant is not going to support the case of the prosecution. The purpose of the compromise is to maintain peace and harmony in the relations.

It has also been held by Five Judges' Bench of our own High Court in **Kulwinder Singh and others vs. State of Punjab and others, 2007 (3) RCR (Criminal) 1052** that this Court has wide power to quash the criminal proceedings even in non-compoundable offences, notwithstanding the bar under Section 320 of the Criminal Procedure Code in order to prevent abuse of the process of law or to secure the ends of justice.

Accordingly, the present petition is allowed and the impugned criminal proceedings arising out of FIR No. 327 dated 26.8.2011 registered under Sections 498-A,406,34 IPC at Police Station Sadar Gurgaon as well as all subsequent proceedings arising therefrom qua petitioner, namely, Rakesh Dhar Dwivedi, are hereby quashed.

May 27, 2016
pooja

(DAYA CHAUDHARY)
JUDGE

