

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.**

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**CRM-M- No.22336 of 2015
DATE OF DECISION: 02.12.2016.**

Jaspreet Singh @ Vicky and others

...Petitioners.

VERSUS

State of Punjab and another

...Respondents.

CORAM : HON'BLE MRS. JUSTICE JAISHREE THAKUR

Present: Mr. K.S. Rekhi, Advocate
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 of Cr.P.C. praying for quashing the FIR No.163 dated 18.05.2011 registered under Sections 406/498-A of IPC at Police Station Civil Lines, Amritsar City, District Amritsar.

Counsel for the petitioners contends that there was a marriage performed between the petitioner and respondent No.2 on 23.11.2009 as per Sikh rites and ceremony. However, on account of certain differences that arose, respondent No.2 got one FIR No.163 registered in Police Station Civil Lines, Amritsar City under Sections 406/498-A of IPC. On the intervention of family members the matter was compromised in which it was decided that the petition under Section 13-B of the Hindu Marriage Act would be filed and a decree of divorce would be obtained alongwith final settlement of Rs.28,00,000/-. Pursuant to the said settlement, a petition

under Section 13-B of the Hindu Marriage Act was preferred. It was before the District Judge Amritsar that on 03.05.2012 a statement was recorded wherein respondent No.2 admitted that the matter had been settled amicably and she had received all dowry articles and other belongings from the petitioners. Furthermore, petitioner No.1 was to pay a sum of Rs.28,00,000/- out of which she had received Rs.14,00,000/- vide pay order No.945656 dated 27.04.2012 in her name and the remaining amount would be paid on the date when 2nd motion statement is recorded. It was further stated that the custody of the minor daughter would remain with petitioner No.1 in future, while adding that she would ensure the quashing of FIR No.163 registered at Police Station Civil Lines, Amritsar City. After recording of the first motion statement, the matter was posted for hearing on 08.11.2012 on which date the decree of divorce was granted while recording her statement that she had received the balance amount wherein it was stated that she had received a sum of Rs.14,00,000/- by way of pay order No.259416 dated 07.11.2012. Further stating that she will get the FIR quashed.

On the basis of the statement recorded by both the parties, the District Judge, Amritsar dissolved the marriage by granting a decree of divorce on 08.11.2012. Thereafter, the petitioners filed this instant petition for quashing of FIR on account of the fact that a decree of divorce had been granted, a sum of Rs.28,00,000/- had been paid as permanent alimony and on account of the fact that respondent No.2 had suffered a statement that she had received all her dowry articles.

Learned counsel for the petitioners stated that the wife-respondent No.2 is not co-operating in getting the said FIR quashed

despite having suffered a statement before learned District Judge while getting decree of divorce.

Notices were issued in the instant petition which were initially received back unserved. However, office report shows that service was effected upon respondent No.2 for 22.03.2016 through her mother. At this stage, counsel appearing on behalf of the State, on instructions from ASI Balwinder Singh, submits that untraced report has been prepared on 20.11.2013.

I have heard counsel for the parties.

Admittedly, marriage took place between the parties which did not survive the test of time which led to filing a petition under Section 13-B of the Hindu Marriage Act in which statements of both the parties were recorded. A categorical statement was made by respondent No.2 both at the initial stage of filing of the petition under Section 13-B and decree of divorce has been granted that she would assist in getting the FIR quashed. However, since she did not cooperate, the petitioners herein were compelled to approach this Court. Counsel for the petitioners relies upon the judgment **Mohd. Shamin Vs. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697** wherein in a similar situation arose when after having received the money as alimony, the wife, therein, did not come forward for quashing of the FIR. The Hon'ble Apex Court was of the view that the conduct of the wife would be an abuse of the process of the Court.

Similarly, in the instant case, after having received and accepted a sum of Rs.28,00,000/- as permanent alimony for herself, making a statement that she had received all dowry articles, handing over custody of the minor daughter to the petitioner respondent No.2 did not come forward

to get the FIR quashed on the basis of compromise, this Court is of the opinion that respondent No.2 is taking undue advantage of the situation with no other reason than to harass the petitioners despite that fact that the marriage has since been dissolved and she has got her Stridhan/ dowry articles and permanent alimony.

In view of the law laid down above, continuing the said proceedings would be an abuse of the process of the Court and hence are quashed.

Accordingly, the present petition is allowed.

(JAISHREE THAKUR)
JUDGE

02.12.2016.
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Whether speaking/reasoned:	Yes/ No
Whether reportable:	Yes/No