

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-36100 of 2013
Date of Decision: 08.8.2016

Rajinder Kumar and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. B.B.S.Sobti, Advocate
for the petitioners.

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

Mr. Mukesh Kumar Bhatnagar, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J (ORAL)

The instant petition is for quashing of FIR No. 81 dated 7.9.2012 registered under Sections 406, 498-A IPC, Police Station Phase-XI, Mohali (Annexure P-) and all the consequent proceedings arising out of the same.

This petition had been filed by seven petitioners but later on the petition was withdrawn qua petitioners No. 3 to 7.

Petitioners No. 1 and 2 are the in-laws of the complainant. An FIR has been registered and the petitioners were named in the FIR. The motion order passed on 16.1.2014 shows that notice of motion was issued only to Advocate General, Punjab merely to determine the status of the investigation and the material gathered against the petitioners. No notice

had been issued to respondent No. 2. However, they had appeared and had filed reply.

It was not disputed that challan was filed on 19.3.2014 and the trial has commenced.

The above facts were not brought to the notice of this Court while making the submissions.

The counsel for the petitioners relied upon '*Santosh versus Durga Prasad 2010(6) R.C.R. (Criminal) 1905*', '*Ram Swaroop and Anrs. Versus Mahindra and others 2004(1) R.C.R. (Civil) 553*', '*Anamika Khurana versus Rajiv Khurana 2016(3) Civil Court Cases 001 (Delhi)*', '*Preeti Gupta and another versus State of Jharkhand and another 2010(4) R.C.R. (Criminal) 45*', '*Asmathunnisa versus State of A.P. and another 2011(2) R.C.R. (Criminal) 571*', '*Paramjit Kaur versus State of Punjab 2011(5) R.C.R. (Criminal) 686*', '*Vipin Jaiswal versus State of A.P. 2013(2) R.C.R. (Criminal) 342*' and '*Anoop Kumar versus State of Haryana and another 2013(2) R.C.R. (Criminal) 242*' and the main submission was that soon after the FIR, a compromise was effected and the wife had agreed to withdraw the FIR and the act had been condoned and, therefore, the proceedings could not continue. The second submission was that proceedings under Section 107, 151 Cr.P.C. were initiated by the SDM and the proceedings in the FIR would amount to double jeopardy.

It is not disputed that the petition for quashing of the FIR based on the compromise was filed but subsequently it was withdrawn on 20.12.2013 (Annexure P-13).

Since limited notice was issued to the State and thereafter challan has been presented and the trial is going on. There remains nothing

which needs to be adjudicated. Whether the compromise was voluntary or whether the act/cruelty was condoned is a question which can be raised before the trial Court. No finding can be given that the allegations are exaggerated or the complaint was malafide. These questions will be addressed by the trial Court on the basis of evidence that may be led before it.

The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

August 08, 2016
Gurpreet

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