

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

**CRM-M No. 3695 of 2015
Date of decision: 07.11.2016**

Ajit & Others

...Petitioners

Versus

State of Haryana & Another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajesh Lamba, Advocate
for the petitioners.

Mr. Sanjay K. Saini, DAG, Haryana
for respondent No. 1-State.

None for respondent No. 2.

JAISHREE THAKUR, J.

The instant petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the FIR No. 652 dated 09.08.2013 (Annexure P-1), registered under Sections 498-A, 406, 506 and 34 of the Indian Penal Code at Police Station Gurgaon City, District Gurgaon, on the basis of a compromise dated 27.01.2015 (Annexure P-2) entered into between the parties.

On account of matrimonial disputes that arose between the parties, respondent No. 2 filed an FIR against the petitioner and several others. However, on the intervention of family friends and well wishers, a compromise was entered into on 27.01.2015 between the petitioner and respondent No. 2. As per the compromise, respondent No. 2 was to withdraw the petition titled as '*Smt. Poonam vs. Ajit*' from the Court of

Ms. Ritu Y. K. Behl, District Judge, Family Court, Gurgaon and also to withdraw the complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 titled as '*Smt. Poonam vs. Ajit & Ors.*', pending before the Court of Ms. Samiksha Gupta, JMIC, Gurgaon. It was also agreed that respondent No. 2 would cooperate with the petitioner in quashing of the FIR No. 652 dated 09.08.2013 registered under Sections 498-A, 406, 506 and 34 of the IPC. The petitioner would have to pay a sum of ₹4,00,000/- to respondent No. 2 against her dowry articles, maintenance, past & future etc. On the basis of the said compromise, a petition for dissolution of marriage by way of mutual consent had been filed.

Since the petitioner had paid a sum of ₹4,00,000/- against the dowry articles and respondent No. 2 had undertaken to cooperate in getting the FIR in question quashed, the instant petition was preferred.

By an order dated 28.10.2015, passed by a co-ordinate Bench of this Court, parties were directed to appear before the trial Court on 26.11.2015 for recording of the statement regarding the genuineness of the compromise. However, the petitioner appeared before the trial Court but the complainant-respondent No. 2 did not do so. Therefore, the statement could not be recorded. A report to this effect was submitted by the JMIC, Gurgaon. Counsel for the petitioners contends that in the meantime, a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 came to be issued on 21.08.2015, wherein, a joint statement was made that the respondent herein had received a sum of ₹4,00,000/- from the petitioner as full and final settlement-cum-permanent alimony. It is argued that the

present petition should be allowed and the FIR in question may be quashed in view of the fact that a sum of ₹4,00,000/- had been paid to respondent No. 2 in terms of the compromise and a divorce had been granted on 21.08.2015.

I have heard learned counsel for the petitioner and have perused the record of the case.

Admittedly, compromise was arrived at between the parties in which it had been decided that the respondent would withdraw all the cases pending and filed against the petitioner and would also assist in getting the FIR in question quashed. The petitioner would also pay a sum of ₹4,00,000/- to the respondent as full and final settlement towards maintenance, permanent alimony etc. On the basis of the compromise entered into, a petition under Section 13-B of the Hindu Marriage Act was also filed and a decree of divorce was granted thereunder wherein a joint statement was made that respondent No. 2 had received a sum of ₹4,00,000/- as full and final settlement. The petitioner has fulfilled his part of the compromise and has acted upon it and respondent No. 2 was under an obligation under the compromise to assist in getting the FIR in question quashed. Her statement was to be recorded before the trial Court on 26.11.2015 regarding the genuineness of the compromise, on which date she did not turn up.

Having acted upon the compromise and taken a sum of ₹4,00,000/-, this Court feels it appropriate to quash the said FIR as the continuance of the same would be an abuse of the process of the Court.

Respondent No. 2 was under an obligation to have had her statement recorded which obligation she did not fulfill. In a similar case reported as ***Ruchi Agarwal vs. Amit Kumar Agarwal, 2004 (4) R.C.R. (Criminal) 949***, the Hon'ble Apex Court quashed the FIR after taking the note of the fact that the parties had entered into a compromise and got divorce by mutual consent and the wife despite the compromise did not withdraw the FIR under Sections 498-A and 506 of the IPC. The Hon'ble Apex Court held that wife wanted to harass the husband even after getting the relief.

In the instant case, a similar situation has arisen wherein the wife has obtained a decree of divorce by mutual consent and also received a sum of ₹4,00,000/- as permanent alimony in terms of the compromise but did not appear before the trial Court for recording of her statement as per the direction of the Court.

In view of the above and by relying upon the judgment cited above, this petition is allowed and FIR No. 652 dated 09.08.2013 (Annexure P-1), registered under Sections 498-A, 406, 506 and 34 of the Indian Penal Code at Police Station Gurgaon City, District Gurgaon and all subsequent proceedings arising out of the same are quashed qua the petitioners.

The petition stands disposed of.

November 07, 2016
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No