

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No. M-8400 of 2014(O&M)
Date of decision : 14.03.2016**

Pritpal Singh & Ors.

..... Petitioners

versus

State of Punjab & Anr.

... Respondents

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

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by: Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate
for petitioners.**

Mr. K.S. Aulakh, AAG Punjab.

**Mr. Atul Goyal, Advocate
for respondent No.2. .**

ANITA CHAUDHRY, J.

The petitioners are seeking quashing of FIR No. 235 dated 27.09.2007, registered under Sections 406 and 498-A IPC at Police Station Shimlapuri, Ludhiana, being abuse of process of the law.

The facts of the case, in nutshell. Respondent No.2 Gurpreet Kaur was married to petitioner No.1 Pritpal Singh on 03.02.2005. A child was born to the couple. It appears that due to temperamental differences, the couple could not adjust with each other. Gurpreet Kaur lodged the FIR levelling the allegations of demand of dowry and cruelty against the petitioners.

It is relevant to know the relationship of petitioners with the complainant. Petitioner No.1 was the husband, petitioners No.2 and 3, namely, Piara Singh and Jaswinder Kaur were the parents-in-law, petitioner No.4 Harpreet Kaur was sister-in-law who was married to petitioner No.5 Sharanjit Singh while petitioner No.6 Darshan Singh was father of petitioner No.5.

After investigation, the police filed challan against petitioners No.1 and 2 while remaining accused were declared innocent. The accused were charged under Sections 406 and 498-A IPC. After the statement of the complainant, pursuant to an application under Section 319 Cr.P.C., remaining petitioners were summoned to face trial.

On 01.07.2013 a compromise, Annexure P-2 was entered between the couple and as a consequence thereof, a joint petition under Section 13-B of Hindu Marriage Act was filed by the parties on 04.07.2013. Joint statement(Annexure P-3) at first motion stage was recorded. The matter was taken up on 04.01.2014 for second motion stage and again joint statement (Annexure P-4) was recorded and a decree of divorce was passed on the basis of mutual consent of the parties.

The petitioners then approached this Court by way of Crl. Misc. No.26615 of 2013 for quashing of the FIR on the basis of compromise. Respondent No.2 appeared before this Court and denied the factum of compromise and on 28.01.2014 the petition was permitted to be withdrawn with liberty to file fresh petition

on merits. Hence, the petitioners have filed the instant petition.

Learned Senior counsel for the petitioners had urged that as per compromise, respondent No.2 was obliged to withdraw the criminal case, apart from the other cases under 125 Cr.P.C. and domestic violence, but to harass the petitioners, the complainant is backing out of the compromise. According to him, entire amount of Rs.6.5 lacs was paid to the complainant and the compromise was duly executed between the parties and a decree of divorce was passed and the complainant was bound to withdraw the criminal proceedings and now after the compromise, continuation of prosecution of the petitioners would be an abuse of process of law. He had relied upon **Ruchi Agarwal Vs. Amit Kumar Agrawal 2004(4) RCR(Crl.) 949, Mohd. Shamim Vs. Smt. Nahid Begum, 2005(1) RCR(Crl.) 697, Ram Lal & Ors. Vs. State of Haryana & Anr. 2008(2) RCR(Crl.) 823 and Ravinder Kumar Kohli & Ors. Vs. State of Punjab & Anr., 2011(5) RCR(Crl.) 20.**

State had filed the reply. Learned State counsel had submitted that the offences against the petitioners are non-compoundable and no ground for quashing of the FIR is made out.

Complainant had also filed the reply. Learned counsel for the complainant had admitted the aforesaid facts. According to him, it was agreed that apart from Rs.6.5 lacs, the gold ornaments were to be returned separately to the complainant. It was assured that this fact would be incorporated in the

compromise. A draft compromise mentioning this fact was shown to the complainant, but fraud was played and her signatures were obtained on compromise without mentioning the factum of return of jewellery. It was also submitted that the complainant was kept in dark on 04.01.2014 and she was assured of return of jewellery after the statement, but after her statement of second motion stage was recorded, the petitioners refused to return the jewellery.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

There is no dispute that on 01.07.2013 a compromise was arrived at between the parties. The complainant agreed to withdraw the cases pending between the parties, including the impugned FIR. On 04.07.2013 a petition for divorce by mutual consent was filed. She had also received the amount of Rs.3.25 lacs on two dates i.e. on 04.07.2013 and 04.01.2014 when her joint statements on first and second motion stage respectively were recorded. The dissolution of marriage by mutual consent was also not disputed by the complainant. The plea of the complainant is that the compromise was not honoured by the petitioners and they had to return her gold jewellery after the second motion stage statement, seems to be an after-thought and only to wriggle out of the compromise. She had appeared before the Court on two different dates. Her statement nowhere refers to the return of gold jewellery, rather she had emphatically stated that a lumpsum amount of Rs.6.5 lacs had been agreed to

be paid to her towards dowry articles, including jewellery and past, present and future alimony. Similar statement was made by her on the date when final decree of divorce was granted. She was represented by a lawyer and it cannot be expected that she was not in a possession of copy of the compromise or she had signed without reading it. The story has been cooked up later. After her statement and the refusal, the complainant made no protest before the Court below. If she was not satisfied, she would have sought recall of the divorce decree.

She had received the full and final settlement amount from the petitioners and a decree of divorce was passed. The petitioners had performed their part of the obligation under the compromise. She had agreed to make statement in favour of the petitioners. But she failed to do so. She cannot be permitted to back out from the compromise without any valid and legal ground.

In this view of the matter, the Court is of the considered opinion that continuation of prosecution against the petitioners would be an abuse of process of law.

There is no legal impediment in exercising the powers under Section 482 Cr.P.C. considering the facts of the case.

Therefore, in view of the discussion made above, the instant petition is allowed and the impugned FIR and consequent proceedings thereto, including summoning order, are quashed.

March 14, 2016
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(ANITA CHAUDHRY)
JUDGE