

CRM-M No.28153 of 2017

Date of decision: November 30, 2017

Sucheta and others

...Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. H.S. Randhawa, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab
for respondent No.1-State.

Mr. S.P. Garg, Advocate
for respondent No.2.

HARI PAL VERMA, J.(ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. for quashing of Criminal Complaint No.1 dated 08.01.2015 (Annexure P-1) instituted at the instance of respondent No.2/complainant Ravinder Kumar.

Respondent No.2, who is the husband of petitioner No.1, has filed a criminal complaint under Sections 323, 341, 351, 406, 451, 452, 506, 120-B IPC wherein vide order dated 07.02.2017, the trial Court has summoned the petitioners to face trial for offence under Sections 323, 452, 506, 120-B IPC.

On 03.08.2017 this Court has passed the following order:-

“Learned counsel for the petitioners has argued that the respondent-complainant has not approached the court with clean hands. Though in his complaint filed under Sections 323, 341, 351, 406, 451, 452, 506, 120-B IPC, he has given his residence as Flat No.50, Ground Floor, Swami Enclave, Dhakoli, but the report of the Process Server dated 14.04.2017 indicates that there is no Flat No.50, Ground

Floor at Swami Enclave, Dhakoli. Since that house was not in existence, the Process Server has sought for the correct address of the complainant. He further states that even the Naib Tehsildar, Zirakpur, vide his report dated 11.07.2017, has also reported that in Swami Enclave, there are three storey flats and flats are constructed on plot Nos.48 and 51, whereas 49 and 50 are vacant plots. Therefore, he states that there is no Flat No.50, Ground Floor at Swami Enclave, Dhakoli, which doubts the very occurrence dated 21.10.2014 at 7.00 PM at the residence of the complainant.

Notice of motion for 20.09.2017.

Considering the nature of dispute between the parties, the parties are directed to appear before the Mediation & Conciliation Centre of this Court, on 21.08.2017.

Till the mediation proceedings are pending, the trial Court is directed to adjourn the case beyond the date fixed by this Court”.

Pursuant to the aforesaid order, the parties appeared before the Mediation and Conciliation Centre of this Court, where a settlement/agreement has been arrived at between the parties.

As per the terms of agreement in Para 8, respondent-Ravinder Kumar was required to pay an amount of Rs.4,50,000/- to petitioner No.1-wife, as per the following schedule:-

(i) An instalment of Rs.1,50,000/- (Rupees One Lac Fifty Thousand Only) shall be paid in the shape of demand draft in the name of Sucheta at the time of making first statement in the Court under Section 13-B of HMA in the divorce petition.

(ii) An instalment of Rs.1,50,000/- (Rupees One Lac Fifty Thousand Only) shall be paid in the shape of demand draft in the name of Sucheta at the time of making final statement in the divorce petition, as fixed by the Ld. Court.

(iii) An instalment of Rs.1,50,000/- (Rupees One Lac Fifty Thousand Only) shall be paid in the shape of demand draft

in the name of Sucheta at the time of making quashing order in the petition filed for quashing of the above-mentioned FIR by the Hon'ble High Court.”

In the settlement, petitioner No.1 was required to withdraw petition filed under Section 125 Cr.P.C. and the complaint filed under Domestic Violence Act. The parties were further required to file petition under Section 13-B of the Hindu Marriage Act seeking divorce on mutual grounds.

Para 10 of agreement, which is relevant, reads as under:-

“It has been further agreed between the parties that the second party shall not oppose the present petition in view of the compromise. The complaint case which is pending at Derabassi against which the present quashing petition is fixed for 30.11.2017 shall be got allowed by both the parties by making statement or by filing affidavit as the case may be, in view of the present compromise after both the cases pending at Hoshiarpur i.e. petition under Section 125 Cr.P.C. and appeal under Domestic Violence Act, are withdrawn and the petition under Section 13-B HMA is filed and first statement is recorded by the Ld. Court”.

Learned counsel for the petitioners states that pursuant to the aforesaid agreement, petitioner No.1 has already withdrawn, the cases filed under Section 125 Cr.P.C. and Domestic Violence Act.

Learned counsel for respondent No.2 states that in terms of the settlement dated 22.11.2017 reduced into writing before the Mediation and Conciliation Centre of this Court, respondent No.2 has paid the first installment of Rs.1,50,000/- at the first motion stage of the petition filed under Section 13-B of the Hindu Marriage Act and second motion is now fixed for 29th May, 2018.

Learned counsel for both the parties have made a statement at bar that they have no objection in case present complaint is quashed in the light of the settlement arrived at between the parties.

In view of the above and for the reasons stated in the settlement/agreement and the statements so made by the respective counsels, the present petition is allowed, the criminal complaint No.1 dated 08.01.2015, under Sections 323, 341, 351, 406, 451, 452, 506, 120-B IPC (Annexure P/1) including summoning order dated 07.02.2017 (Annexure P/2) are hereby quashed.

November 30, 2017
m. sharma

(HARI PAL VERMA)
JUDGE

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