

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

CRM-M No.32012 of 2015 (O&M)

Date of decision: 03.04.2017

Harpreet Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. G.K. Mann, Advocate
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab.

REKHA MITTAL J.

CRM No.10845 of 2017

Heard.

Allowed as prayed for.

Annexures P8 to P10 are taken on record subject to just exceptions.

Disposed of accordingly.

CRM-M Nos.32012 of 2015

The petitioners pray for quashing of FIR No.34 dated 04.03.2012 under Sections 406 and 498-A of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Sultanwind, District Amritsar City (Annexure P1) and proceedings arising therefrom.

Counsel for the petitioners has submitted that petitioner No.1 was married to Rajinder Kaur – respondent No.2 on 20.11.2009 and out of wedlock, a male child was born on 03.09.2010 and he is

living with the petitioners. Respondent No.2/complainant and petitioner no.1 settled their dispute and decided to part ways. They filed a petition under Section 13-B of the Hindu Marriage Act (in short 'the Act') in which they averred that they have agreed for quashing of criminal proceedings pending inter se the parties. Statements of the parties in first motion and second motion were recorded on 10.09.2014 (Annexure P10) and 27.05.2015 (Annexure P2) and the proceedings culminated in judgment and decree dated 29.05.2015 (Annexure P4) passed by the District Judge, Amritsar. It is further submitted that in pursuance of the settlement between the parties, Harpreet Singh – petitioner No.1 has already paid an amount of Rs.2.5 lacs to the complainant duly recorded in the statements of the complainant in the matrimonial proceedings. It is further argued that FIR No.137 dated 05.08.2011 under Sections 452, 323, 427, 506, 148 and 149 IPC was registered at Police Station Chhehretta, District Amritsar against respondent No.2, her brother and parents. The accused in the said case filed a quashing petition and the petitioners appeared before the Court below and made a statement on the basis whereof petition CRM-M No.39714 of 2014 was allowed by this Court vide order dated 12.02.2015 (Annexure P7). It is vehemently argued that as petitioner No.1 and respondent No.2 settled their dispute on the basis whereof they filed a joint petition for divorce wherein they have agreed to withdraw all the cases filed against each other and respondent No.2 has already derived advantage of the said settlement by receipt of an amount of Rs.2.5 lacs in divorce proceedings and quashing of the

criminal case lodged against her and her parental family members, continuation of the criminal proceedings in the present FIR for failure of respondent No.2 to come forward and record her statement in terms of the compromise/settlement would amount to abuse and misuse of process of Court. In support of her contention, she has relied upon judgment of Hon'ble the Supreme Court of India "***Ruchi Agarwal vs Amit Kumar Agarwal***", 2004(4) RCR (Criminal) 949.

Counsel for the State of Punjab has nothing much to say in the matter. However, there is no representation on behalf of respondent No.2 despite service.

I have heard counsel for the parties and perused the paperbook.

As respondent No.2 did not appear to contest the proceedings, allegations raised in the petition with regard to settlement between the complainant and her husband and the complainant having taken advantage of the terms and conditions of settlement remain un rebutted and unchallenged. Even otherwise, the allegations raised in the petition stand sufficiently substantiated from various documents (Annexures) placed on record and most of these documents are proceedings conducted before a Court of law.

Taking into consideration the averments raised in the petition filed under Section 13-B of the Act, statement of the complainant/respondent No.2 recorded in those proceedings and the fact that criminal proceedings initiated against Jatinder Singh and others were quashed by this Court on 12.02.2015, I find merit in

contentions of the petitioners that continuation of criminal proceedings against the petitioners on the basis of FIR lodged by the complainant/respondent No.2 amounts to misuse of process of Court, therefore, it is expedient in the interest of justice to quash the same in exercise of power under Section 482 Cr.P.C. This apart, the present case is squarely covered by judgment of Hon'ble the Supreme Court in ***Ruchi Agarwal's case (supra)***.

For the foregoing reasons, the petition is allowed. FIR No.34 dated 04.03.2012 under Sections 406 and 498-A IPC, registered at Police Station Sultanwind, District Amritsar City and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners.

(REKHA MITTAL)
JUDGE

03.04.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No