

CRM -M-43491 of 2013(O&M)

In the High Court of Punjab and Haryana at Chandigarh

CRM -M-43491 of 2013(O&M)
Date of Decision: 23.1.2017

Yogesh Verma and others

---Petitioners

versus

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. A.S.Bhatti, Advocate
for the petitioners**

Ms. Divya Jerath, AAG, Punjab

None for respondent No.2

Rekha Mittal, J.

CRM No. 1866 of 2017

Heard.

**Allowed as prayed for. Annexures P-4 to P-6 are taken on
record.**

Main case

**By invoking Section 482 of the Code of Criminal
Procedure (in short “Cr.P.C.”) the petitioners pray for quashing of FIR
No. 149 dated 29.11.2010 registered under Sections 406, 498-A of the
Indian Penal Code (in short “IPC”) at Police Station, Dasuya, District
Hoshiarpur and proceedings emanating therefrom.**

Counsel for the petitioner has submitted that marriage of

petitioner No. 1 was solemnized with respondent No. 2 on 21.11.2008 and out of the wedlock one son namely Ansh was born on 6.10.2009. The minor child of the parties is in custody of petitioner No. 1. It is further submitted that dispute between the parties was settled by way of compromise and this fact was duly recorded in the proceedings for grant of pre arrest bail to petitioner No. 1 vide CRM-M-7839 of 2011. A petition for quashing on the basis of compromise was filed vide CRM No. M- 37748 of 2012 and as the complainant/respondent No. 2 did not appear before this Court to record her statement with regard to compromise, the petition was withdrawn with liberty to file a fresh petition on merits. Further argued that dispute between the parties has been settled by way of compromise and in pursuance thereof, petitioner No. 1 and respondent No. 2 filed a petition under Section 13-B of the Hindu Marriage Act, 1955 (in short "the Act"). In those proceedings, statement of respondent No. 2 was recorded on 22.2.2012 (Annexure P-2) wherein she has admitted the factum of compromise, receipt of an amount of Rs. 2 lakhs, return of dowry articles and further agreed not to initiate any proceedings for maintenance or custody of Ansh and to withdraw all the cases filed against Yogesh Kumar. Later, respondent No. 2 got recorded her statement in second motion on 23.8.2012 (Annexure P-5) on the basis whereof, a decree of divorce under Section 13-B of the Act has already been passed by the Additional Civil Judge (Senior Division), Dasuya while exercising the

powers of District Judge on 23.8.2012 (Annexure P-3). It is vehemently argued that as respondent No. 2 had compromised the matter, taken due advantage thereof, got recorded her statements before a Court of Law in the proceedings under Section 13-B of the Act, continuation of the criminal proceedings in the circumstances would be nothing but abuse of process of law, therefore, the FIR aforesaid and proceedings emanating therefrom are liable to be quashed.

Counsel for the State has nothing to say in order to dispute correctness of the factual assertions with regard to compromise between the parties.

Respondent No. 2 failed to appear in the Court despite service, therefore, there is no counter to the averments set up in the petition and arguments advanced by counsel for the petitioners.

I have heard counsel for the parties, perused the paper book particularly the various annexures placed on record.

Perusal of the judgment passed by the Additional Civil Judge (Senior Division), Dasuya (Annexure P-3) would make it evident that petitioner No. 1 and respondent No. 2 filed a joint petition seeking divorce by way of mutual consent and they got recorded their statements in first motion on 22.2.2012 and in second motion on 23.8.2012 and eventually the proceedings culminated in a decree of divorce dated 23.8.2012. As per statement of respondent No. 2

recorded in first motion on 22.2.2012 (Annexure P-2), dispute between the parties has been settled by way of compromise. A relevant extract from the statement of respondent No. 2 recorded on 22.2.2012 reads as follows:-

“On 2.5.2011 we filed a petition for mutual divorce but were withdraw on 5.5.2011. I get back my entire dowry article nothing is left. I received a permanent alimony of Rs. 2,00,000/- by way of two bank draft No. 000292 and 200293 of ICICI Bank Ludhiana dated 2.5.11. I will not file any case in regard to maintenance against Yogesh Verma through out my life nor I will file any case for the custody of Ansh. I will be bound to withdraw all the cases filed against Yogesh Verma. If Yogesh Verma filed quashing of the FIR in the Hon'ble High Court then I will be bound to make statement there. I am taking divorce with my own free will and without any kind of pressure and divorce will be granted to us. I will not file any case for maintenance against Yogesh Verma and will not claim the custody of Ansh. We filed this divorce petition with consent. The photographs of the marriage are Mark A and Mark B. My earlier statement is mark C. The copy of the order of the learned Court is Mark D. The copy of FIR is mark E.”

Taking into consideration that the respondent/complainant has already taken advantage of compromise effected between the parties by receiving an amount of Rs. 2 lakhs, dowry articles and a decree of divorce by way of mutual consent has been passed coupled with the fact that the complainant undertook to record a statement if Yogesh Verma files quashing of the FIR in the High Court, in case the respondent is permitted to continue with the criminal proceedings, it would shake public faith qua authenticity and correctness of the statements recorded before a Court of Law. Furthermore, as compromise effected between the parties has been carried into effect to benefit of the complainant, she cannot be allowed to continue criminal proceedings. In this view of the matter, criminal proceedings initiated at the instance of the complainant by lodging the aforesaid FIR needs to be give a burial and ordered accordingly.

For the foregoing reasons, the petition is allowed, FIR No. 149 dated 29.11.2010 registered under Sections 406, 498-A IPC at Police Station, Dasuya, District Hoshiarpur and proceedings arising therefrom are ordered to be quashed.

(Rekha Mittal)
Judge

23.1.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No