

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41483-2015

Date of Decision:- 03.05.2017

Vishal Jaiswal and others

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashutosh Gupta, Advocate, for the petitioners.

Ms. Mahima Yashpal, AAG, Haryana.

Mr. S.S. Dinarapur, Advocate, for respondent No.2.

RITU BAHRI, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for quashing of complaint under Section 156(3) as well as FIR No.461 dated 05.08.2015, under Sections 498-A, 323, 406 and 506 IPC, registered at Police Station City Yamuna Nagar and all the subsequent proceedings arising therefrom.

Brief facts of the case are that the marriage of petitioner No.1 was solemnized with respondent No.3 on 10.11.2002 at Panchkula. A decree of divorce was filed on 16.03.2015 whereas the present FIR has been registered on 05.08.2015. Present FIR has been registered after recording the joint statements of first motion on 17.03.2015 of petitioner No.1 and respondent No.3 that all the things have been settled between them. The statements and decree have placed on record as Annexure P-2 (colly.).

This Court while issuing notice of motion on 08.12.2015 has stayed the further proceedings on the basis of the aforesaid FIR qua the petitioners.

During the course of hearing on 31.08.2016, learned counsel for respondent No.3 has informed that an application for recalling of order dated 21.10.2015 i.e. the decree of divorce by mutual consent, is pending consideration before the trial Court.

Learned counsel for the petitioners has placed on record the attested copy of order dated 02.02.2017 whereby the application for recalling the above-said order has been dismissed, by the District Judge, Panchkula, which in substance is as under: -

“The Record shows that a joint petition under Section 13-B of Hindu Marriage Act, 1955 was filed on 17.03.2015. Joint statement of parties was recorded in the Court on same day. The record further shows that applicant-wife was represented by her counsel. There is no averment of any fraud or collusion against her counsel and that of respondent-husband. Second joint statement was recorded on 21.10.2015. It is specifically mentioned in the statement that the same was made with free will with mutual consent and without any pressure from any side. The learned Court observed in judgment that there was nothing to disbelieve the version. Medical record dated 22.07.2015, 22.09.2015 and 17.10.2015 show that applicant complained of lack of sleep, having apprehension, referential ideas etc. But during this period, she also filed a private complaint on the basis of which FIR No.461 dated 05.08.2015 was registered for alleged commission of offence under Sections 323/406/498-A/506 IPC against her husband and his family members and also filed other cases. This shows that she had good state of mind. There is a copy of a petition filed under Section 12 of Protection of Women from Domestic

Violence Act, 2006 on 09.06.2015. This fact again reflect that she is quite aware of her actions. Be that as it may be, in the given circumstances, no case of re-calling of judgment is made out. However, she may agitate the same by filing separate suit.

15. Per discussion, the application as moved by the applicant-petitioner-wife for recalling the judgment dated 21.10.2015 by virtue of which the marriage of the applicant-petitioner No.2 and petitioner No.1-respondent was dissolved by decree of divorce by mutual consent under Section 13-B of Hindu Marriage Act, 1955, stands dismissed.”

After hearing the learned counsel for the parties, going through the material placed on record, this Court is of the considered view the registration of the present FIR would amount to abuse of process of Court as the allegations of bringing less dowry would not survive in view of the joint statements (Annexure P-2) made by the parties. Therefore, taking into consideration into the facts, the present criminal prosecution against the petitioners deserves to be quashed as no useful purpose would be served in prolonging the litigation. Accordingly, complaint under Section 156(3) as well as FIR No.461 dated 05.08.2015, under Sections 498-A, 323, 406 and 506 IPC, registered at Police Station City Yamuna Nagar and all the subsequent proceedings arising therefrom, are hereby quashed.

The present petition stands allowed.

May 03, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No