

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

Crl. Misc. M 537 of 2016 (O&M)
Date of decision: 23.10.2017

Harjit Singh

...Petitioner

Versus

Union Territory (UT), Chandigarh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. RK Arya, Advocate
for the petitioner.

Mr. JS Toor, A.P.P., U.T., Chandigarh.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 362 dated 22.7.2015 (Annexure P/1) registered under Sections 406 and 498-A IPC at Police Station Mani Majra, Union Territory, Chandigarh and all subsequent proceedings arising therefrom in view of the compromise (Annexure P/2).

The facts giving rise to the instant petition are that the petitioner was married to respondent No.2 on 31.8.2014, as per Sikh rites and ceremonies. There is no child born out of the wedlock. However, due to temperamental differences between the husband and the wife, a matrimonial dispute arose and the aforesaid FIR came to be registered on the statement

of complainant-wife. During the pendency of the proceedings, on 23.12.2015, a compromise arrived at between the parties. As per the compromise, it was agreed that both the parties would file a petition under Section 13-B of the Hindu Marriage Act for dissolution of the marriage by mutual consent and the husband would give a lump-sum of ₹2 lakhs to the wife as permanent alimony. The first party-wife shall not claim any right or title, whatsoever against the second party-husband. It was also agreed between the parties that they would file a petition before High Court for quashing of the aforesaid FIR. Clause 7 of the compromise reads as under:-

“7. That both parties undertake to get recorded their statements before the concerned courts for quashing of aforementioned FIR and dissolution of their marriage on mutual consent, as and when required by the concerned courts.”

In pursuance to the aforesaid compromise, both the wife and the husband filed a petition under Section 13-B of the Hindu Marriage Act for dissolution of the marriage on mutual consent, which was allowed vide judgment dated 6.7.2016 and the marriage between the parties stood dissolved. In the order passed by the learned Additional District Judge it is clearly mentioned that though as per the compromise a sum of ₹2 lakhs were to be paid to the wife, however, at the time of recording of final statement, a sum of ₹2,10,000/- has been paid to the wife. It is also observed in the order that the consent of the parties has not been obtained by force, fraud or undue influence.

Furthermore, in pursuance to the aforesaid compromise, the instant petition for quashing of the FIR was filed, in which notice of motion was issued. On 20.7.2016, this Court, keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned trial court for getting their statements recorded in support of the compromise. Thereafter, the case was adjourned on many occasions, but respondent No.2 did not appear. As per report received from the Judicial Magistrate Ist Class, Chandigarh, none came present for recording their statements, as directed by this Court.

Learned counsel for the petitioner submits that respondent-wife is intentionally not appearing either before this Court or before the trial court to get her statement recorded, in terms of the compromise arrived at between the parties. He further submits that the petitioner has performed his part of the obligation as spelt out in the compromise and is it is only on payment of ₹2 lakhs, as agreed between the parties, that decree of divorce by mutual consent has been passed. However, now with a view to harass the petitioner, the respondent-wife is not coming forth to get the FIR quashed.

Learned counsel for the petitioner relies on Ruchi Agarwal Versus Amit Kumar Agrawal 2004 (4) R.C.R. (Criminal) 949, Mohd. Shamim Versus Smt. Nahid Begum 2005 (1) R.C.R. (Criminal) 697 and Sandip Somany Versus State of Haryana and another 2016 (2) Law Herald 1305 to contend that since the petitioner has performed his part of the obligations under the compromise, as such, the present FIR deserves to be

quashed.

I have heard learned counsel for the parties and have also gone through the record.

Undisputedly, the marriage between the parties was dissolved by way of mutual consent in pursuance to the compromise having been arrived at between the parties vide judgment dated 6.7.2016 passed by the Additional District Judge, Chandigarh. It is also not disputed that the petitioner has paid a sum of ₹2 lakhs to the respondent-wife as permanent alimony, in terms of the compromise. However, now the respondent-wife is not forth coming to get the FIR quashed, in terms of Clause 7 of the compromise, reproduced above. From the facts, as emerged above, it appears that the respondent-wife is not intentionally appearing either before this Court or before the trial court to get her statement recorded in terms the agreement arrived between them. It appears that she wants to harass the petitioner. The judgments as relied upon by the petitioner are fully applicable to the facts of the instant case. In similar circumstances where the respondent failed to appear to make a statement regarding no objection quashing of FIR in terms of the compromise, the FIR has been quashed.

In view of the fact that the petitioner has performed his part of the obligations under the compromise, the continuance of the criminal proceedings, is nothing but misuse of process of court and law and the same deserves to be quashed.

For the reasons stated above, this petition is allowed and FIR

No. 362 dated 22.7.2015 registered under Sections 406 and 498-A IPC at Police Station Mani Majra, Union Territory, Chandigarh and all subsequent proceedings arising out of the same are quashed.

The petition stands disposed of.

23.10.2017

prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No