

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

CRM-M-46864 of 2017 (O&M)

Date of Decision:20.12.2017

Shashi Bhagwan Gupta and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Harsh Manocha, Advocate
for the petitioners.

Mr. Sauraj Khurana, DAG, Punjab.

Mr. Arun Singla, Advocate
for respondent no.2.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.21 dated 01.12.2014, under Sections 406, 498-A IPC, registered at Police Station NRI, District S.B.S.Nagar, along with all other consequential proceedings arising therefrom including order dated 03.11.2015 (Annexure P-3) on the basis of compromise (Annexure P-4) arrived at between the parties.

Learned counsel for the petitioners submits that order dated 03.11.2015 (Annexure P-3) was passed in violation of the provisions of the law. Petitioners had gone to Canada on 01.08.2014 and the present FIR was registered on 23.08.2014. They were not served in accordance with law. Moreover, the petitioners have come to India and appeared before the Court of competent jurisdiction in

view of order dated 12.10.2017 passed in CRM-M-38361 of 2017, petitioners have joined the proceedings.

Petitioners are the parent-in-laws of the complainant in this case. It is submitted that the matter was amicably resolved with the complainant. The terms and conditions of the settlement were reduced into writing on 05.11.2015 (Annexure P-4).

Pursuant thereto, a petition under Section 13-B of the Hindu Marriage Act, 1955 was filed. The said petition was allowed on 12.05.2016 by the learned Family Court East District Vishwas Nagar Delhi (Annexure P-7). As per the terms and conditions of the settlement, it was decided that a sum of ₹8 lakhs would be handed over to respondent no.2 as full and final settlement of all her claims-past, present and future qua her husband.

It is submitted that a sum of ₹1 lakh was handed over to respondent no.2 on 05.11.2015 when the settlement was arrived at. Another sum of ₹3 lakhs was handed over to respondent no.2 when statements of the parties were recorded at first motion in a petition under Section 13-B of the Hindu Marriage Act. 1955. A sum of ₹2 lakhs was remitted to her at the time of recording of their statements at second motion in the said petition. It is further submitted that in terms of the settlement a sum of ₹1 lakh was handed over to her pursuant to which respondent no.2 handed over the vacant possession of property bearing No. 8B J & K Extention Laxmi Nagar Delhi. Petitioners had thereafter, withdrawn their suit for possession in respect to the said property. ₹1 lakh was handed over to respondent no.2 when CRM-M-17888 of 2016 was filed for quashing of the

aforementioned FIR. It is submitted that the said petition was filed by the present petitioners as well as their son through their authorized power of attorney holders. In the proceedings in CRM-M-17888 of 2016, it was directed that information be supplied as to when the petitioners would be coming back to India. Order dated 14.07.2017 was passed in SLP (Annexure P-8). The present petitioners came back to India, were granted interim bail. Thereafter, CRM-M-17888 of 2016 was withdrawn on 22.11.2017 (Annexure P-9) with liberty to file afresh in their own right on the basis of a compromise between the parties as well as on account of the fact that marriage between the petitioner's son and respondent no.2 had been dissolved by mutual consent on 12.05.2016. Reference is also made to affidavit dated 20.05.2016 (Annexure P-10), which was suffered by respondent no.2 in this respect.

Notice of motion was issued in the present petition. Mr. Arun Singla, Advocate, appeared on behalf of respondent no.2. He affirmed and verified the factum of settlement arrived at between the parties. However, respondent no.2 has now not come-forward for recording of her statement in respect to the settlement in the present case.

Learned counsel for respondent no.2 submits that despite efforts, he has not been able to contact respondent no.2 or her brother, who had contacted him on 09.12.2017.

Learned counsel for the petitioners vehemently argues that in such a situation, when the complainant has amicably resolved the matter and received the entire settled amount but is thereafter not

coming-forward to honour her commitment, the present petition should be allowed and the FIR in question be quashed.

Learned counsel for the State, on instructions from ASI Sohan Singh, informs that the complainant on 23.11.2015 had suffered a statement before the police authorities in respect to the compromise arrived at between the parties. Photocopy of the said statement handed over in Court today, is taken on record subject to just exceptions.

I have heard learned counsel for the parties.

Compromise dated 05.11.2015 (Annexure P-4) is not in dispute. It is further not in dispute that pursuant to this compromise, petition under Section 13-B of the Hindu Marriage Act, 1955 filed by the petitioner's son and respondent no.2 has since been allowed on 12.05.2016 (Annexure P-7). The entire settled amount of ₹8 lakhs as detailed in the foregoing paras has been received by her. In such a situation, in case respondent no.2 is not coming-forward for recording her statement, there is no impediment for quashing of the said FIR in the factual matrix of the case. It has been held by the Hon'ble Supreme Court in **Ruchi Agarwal Vs. Amit Kumar Agarwal, 2004(4) RCR (Crl.) 949** and **Mohd. Shamim Vs. Smt. Nahid Begum, 2005(1) RCR (Crl.) 697**, that in such matters proceedings should be quashed in the interest of justice as continuance of the same would be an abuse of the process of Court.

Keeping in view the facts and circumstances of this case, it would be in the interest of justice to quash the above-said FIR qua the petitioners who are the parents-in-law of the complainant as no

useful purpose would be served by continuance of the present proceedings. It will merely lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No.21 dated 01.12.2014, under Sections 406, 498-A IPC, registered at Police Station NRI, District SBS Nagar, along with all consequential proceedings including order dated 03.11.2015 (Annexure P-3) are, hereby, quashed qua the present petitioners.

However, liberty is afforded to respondent No.2 to file necessary application for revival of the proceedings in the above said FIR, in case the facts projected before this Court are not as per the actual factual matrix.

20.12.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.