

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

Crl. Misc. M- 10684 of 2018 (O&M)
Date of Decision: 26.9.2018

Rajender Singh and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vikas Kumar, Advocate
for the petitioners.

Mr. P.P. Chahar, DAG, Haryana.

None for respondent No.2.

JAISHREE THAKUR, J.

1. This is a petition that has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 423 dated 26.5.2017 (Annexure P/1) registered under Sections 498-A, 406, 354, 377 and 34 IPC at Police Station Saran Faridabad, District Faridabad, and all subsequent proceedings arising therefrom in view of the compromise (Annexure P/2).

2. In brief, the facts are that a marriage was solemnized between petitioner No.1 and respondent No.2 on 29.4.2013 at Faridabad, as per Hindu rites and ceremonies. No child was born out of this wedlock. Thereafter, a matrimonial dispute arose between the parties, which led to the registration of the aforesaid FIR. Amir Singh, father of the petitioner, approached this Court for grant of anticipatory bail in the aforesaid FIR and

during the pendency of the said petition, the parties were referred to Mediation and Conciliation Centre of this Court, which mediation was successful. A settlement/compromise dated 22.2.2018 came to be executed between the complainant, her husband—Rajendar and father of her husband—Amir Singh, in which it was settled that an amount of ₹6,30,000/- would be paid to the complaint as full and final settlement towards past, present and future permanent alimony and maintenance. Apart from that it was agreed that both the parties would file a petition under Section 13-B of the Hindu Marriage Act. Pursuant to the said compromise, a petition under Section 13-B of the Hindu Marriage Act for grant of divorce by mutual consent was filed, which stands allowed, on the joint statements made by both the parties on 4.9.2018.

3. Learned counsel for the petitioners contends that after having got a decree of divorce and permanent alimony, the complainant is not coming forth to give a statement regarding quashing of the FIR. It is argued that in the joint statement recorded before the Family Court, Faridabad, the complaint had stated that she would make a statement for quashing of the FIR, which is pending before this Court, but now she is not appearing in this Court despite service.

4. Learned counsel for the petitioners relies on the judgments rendered by the Supreme Court in **Ruchi Agarwal Versus Amit Kumar Agarwal 2004 (4) RCR (Criminal) 949** and **Mohd. Shamim Versus Smt. Nahid Begum 2005 (1) RCR (Criminal) 697** to contend that in similar circumstances, the Supreme Court had quashed the FIR when the wife was

not coming forth to withdraw the FIR, despite availing all the benefit under the compromise.

5. I have heard learned counsel for the petitioner as well as the learned State counsel and have also perused the pleadings as well as the decree of divorce that has been granted to the parties.

6. At the outset, it is noted that notice of motion in this case was served for 13.9.2018. As per the office report, respondent No.2 served was served through her father for 13.9.2018, but she did not put in appearance and the matter adjourned for 26.9.2018. Even today none has put in appearance on behalf of respondent No.2. Under the circumstances, this Court is not left with any option but to proceed with the case in accordance with law.

7. Admittedly, a settlement/agreement came into effect before the Mediator of this Court in Criminal Misc. M 30792 of 2017 on 22.2.2018. This settlement/agreement was arrived at before the Mediator appointed, namely, Ms. Sonia Sharma and the said settlement/agreement is duly signed. In terms of the compromise, the petitioners herein have made the full payment of ₹6,30,000/- to the respondent-wife as full and final settlement for the past, present and future maintenance, apart from handing over one gold ring and one gold chain to the complainant in the presence of the Mediator. In terms of the said agreement, the parties had decided that if it is to the knowledge of any party that there is a case filed against each other the same shall be liable to be withdrawn or closed by both the parties or any of the parties by tendering a copy of the compromise.

8. It is settled law that the inherent power of the High Court under

Section 482 of the Code of Criminal Procedure should be used sparingly. The Hon'ble Apex Court in the case of ***State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors., (2014) 15 SCC 29*** has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings. In the instant case when the matter stands settled between the parties and the respondent No.2 in terms of the compromise has received her permanent alimony and also suffered a statement before the Family Court that she would help in getting the FIR quashed, continuation of proceedings under the FIR would be an abuse of the process of law. As the complainant has not contested the matter, the proceedings under the FIR deserve to be quashed. In similar circumstances, the Apex Court in ***Ruchi Agarwal's case (supra)*** has observed as under :-

“8.Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.”

9. In view of above discussion, it appears that the respondent No.2 is not deliberately stepping in to give her statement for quashing of the FIR, despite having agreed to the same before the Mediator as well as having

made statement before the Family Court to that effect. Consequently, this petition is allowed. FIR No. 423 dated 26.5.2017 (Annexure P/1) registered under Sections 498-A, 406, 354, 377 and 34 IPC at Police Station Saran Faridabad, District Faridabad, and all subsequent proceedings arising therefrom are hereby quashed.

26.9.2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No