

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 11802 of 2017 (O&M)

Date of decision : 19.9.2018

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Varinder Kumar @ Vicky and others

.....Petitioners

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ramesh Sharma, Advocate for the petitioners.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Mr. C.L. Verma, Advocate for respondent No.2.

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H. S. Madaan, J.

Accused - Varinder Kumar @ Vicky aged about 31 years, alongwith his mother Lachhmi Rani aged about 55 years and father Panni Lal Verma, aged about 57 years, have brought the instant petition under Section 482 Cr.P.C. seeking quashing of FIR No. 170 dated 19.10.2011, for offences under Sections 406, 498-A IPC, registered at Police Station Raikot, District Ludhiana Rural, and subsequent proceedings arising therefrom, on the basis of compromise affected between the parties. In this petition, they have impleaded State of Punjab and complainant Sunanda Verma, wife of petitioner No.1 Varinder Kumar @ Vicky, as respondent No.2.

Briefly stated, facts of the case are that complainant Sunanda Verma had lodged the FIR in question against her husband Varinder Kumar @ Vicky and his family members including mother Lachhmi Rani and father Panni Lal Verma, on the allegations of her harassment and maltreatment at their hands, after her marriage with Varinder Kumar @ Vicky on 1.8.2010, in connection with demand of dowry and such culprits having committed criminal breach of trust with regard to her *istridhan* articles.

After registration of the FIR, the investigation in the case started. The accused were arrested in this case. After completion of investigation, they were challaned. During pendency of the trial, both the parties settled the dispute amicably vide compromise dated 29.8.2016. In terms of that settlement, petitioner No.1 Varinder Kumar @ Vicky and his wife Sunanda Verma complainant decided to part ways. In pursuant to that they filed a petition under Section 13-B of the Hindu Marriage Act, for dissolution of their marriage by decree of divorce by mutual consent. After recording of statements of petitioners on first motion, as well as on second motion, the petition under Section 13-B of the Hindu Marriage Act, was allowed by District Judge, Ludhiana, vide judgment dated 7.3.2017. As per the settlement arrived at between the parties, it was agreed that complainant would withdraw cases filed by her against the petitioners and FIR would be got quashed.

Notice of the petition was given to the respondents, who put in appearance. Counsel for respondent No.2 complainant submitted that petitioners had not complied with terms and conditions

of the compromise dated 29.8.2016, entered into between the parties, in as much as, matter pending before JMIC, Jagraon has not been withdrawn. Responding to that, learned counsels for the petitioners has stated that such complaint does not relate to the matrimonial dispute between the parties. Rather such criminal proceedings were initiated by brother of petitioner No.1 against family members of respondent No.2 and petitioners cannot be asked to get that case withdrawn.

I find force in the submissions made by learned counsel for the petitioners. A perusal of Panchayati compromise Annexure P-2 entered into between the complainant Sunanda Verma – first party and her husband Varinder Kumar @ Vicky - second party, goes to show that Sunanda Verma had agreed to withdraw the case got registered under Sections 406, 498-A IPC pending in the Court of JMIC, Jagraon, as well as, petition under Section 125 Cr.P.C. pending in the Court of JMIC Jagraon, on payment of Rs.7,50,000/- to Sunanda Verma, as permanent alimony in divorce case. They had also agreed to get their marriage dissolved by filing joint petition under Section 13-B of the Hindu Marriage Act. Other terms and conditions have also been given. It is mentioned that Varinder Kumar @ Vicky -second party would withdraw the case filed against the first party which is pending in the Court of JMIC, Jagraon. It has been dilated that both the parties would be bound to withdraw all the cases pending in the court against each other and would not file any case against each other in future. The amount of Rs.7,50,000/- as agreed upon between the complainant and her husband, has admittedly been

paid to the complainant. Statement of Varinder Kumar @ Vicky recorded by Additional Civil Judge (Senior Division), Jagraon, on 29.8.2016, and that of Sunanda Verma before that Court on that very date are indicative of that very fact. From the statements of Varinder Kumar @ Vicky and Sunanda Verma recorded in the Court on second motion, on 7.3.2017, it comes out that entire agreed amount has been paid by Varinder Kumar @ Vicky to Sunanda Verma. As agreed upon between the parties, custody of the minor child, namely, Parduman Verma is to remain with his mother Sunanda Verma.

The marriage between the spouses having been dissolved amicably by decree divorce by mutual consent, the settled amount of Rs.7,50,000/- having been paid by Varinder Kumar @ Vicky to his wife Sunanda Verma, complainant; that complainant having agreed to get the FIR and petition under Section 125 Cr.P.C. withdrawn, now the complainant cannot withhold her consent to quashing of the FIR and ancillary proceedings for the reason that brother of Varinder Kumar @ Vicky is not withdrawing the complaint filed by him against family members of the complainant. Though it is desirable that he should do so to promote peace and tranquility but it would be proper and appropriate and in the interest of justice, if the FIR lodged by the complainant against the petitioners alongwith ancillary proceedings, is quashed.

Learned counsel for the petitioners has referred to authority **Ravinder Kumar Kohli and others vs. State of Punjab and another 2011 (5) R.C.R. (Criminal) 20**, wherein, dealing with a case where FIR had been lodged under Sections 406, 498-A IPC, by the

wife, however, the dispute had been settled on payment of lump sum amount of Rs.7,00,000/- but wife refused to withdraw the case, the accused had sought quashing of the FIR on the ground of compromise between the parties and it was held that wife is bound to withdraw the FIR, as she has been benefited by the compromise and amount has been received by her, as such the FIR was quashed.

The facts of the present case are almost similar to the authority in question.

Accordingly, the petition is allowed and the abovesaid FIR alongwith ancillary proceedings are hereby quashed.

19.9.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No