

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

Crl. Misc. M- 17367 of 2018 (O&M)
Date of Decision: 6.12.2018

Naveen and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Gurdeep Kaur, Advocate, for
Mr. Sandeep K. Sharma, 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. 179 dated 30.6.2011 (Annexure P/1) registered under Sections 498-A/406 IPC at Police Station Kalanaur, District Rohtak, 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 7.3.2010, as per Hindu rites and ceremonies at Rohtak. 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. Petitioner No.1 even filed a petition under Section 13 of the Hindu Marriage Act for dissolution of the marriage by decree of

divorce, which was accepted vide judgment and decree dated 12.9.2013. Aggrieved against the said decree of dissolution of marriage, respondent No.2 has filed an appeal in this Court. Respondent No.2 also filed a petition under Section 125 of the Code of Criminal Procedure and a petition under Section 12 of the Protection of Women from Domestic Violence Act. In the meantime, during the pendency of one of the petitions filed by petitioner No.1, being Criminal Misc. M 39571 of 2017, this Court referred the parties to the Mediation and Conciliation Centre of this Court and with the help of Mediator, the all disputes between the parties have been sorted out by a compromise/settlement dated 1.3.2018. As per terms of the settlement, respondent No.2 has agreed to withdraw all the cases filed by her and had also agreed to make statement for quashing of the instant FIR.

3. Learned counsel for the petitioners contends that in terms of the compromise (Annexure P/2), the petitioners have paid the entire amount of ₹35 lakh to respondent No.2 towards full and final settlement in the proceedings under the Protection of Women from Domestic Violence Act, vide orders dated 7.3.2018 and 26.3.2018 (Annexure P/3), but now respondent No.2 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 orders dated 7.3.2018 and 26.3.2018 (Annexure P/3).

6. At the outset, it is noted that notice of motion in this case was served for 12.7.2018. As per the office report, respondent No.2 served was served, but she did not put in appearance and the matter adjourned for 16.8.2018. Though on 21.8.2018 and 25.9.2018, Mr. R.S. Kundu, Advocate, had put in appearance on behalf of respondent No.2 but neither on the last date of hearing nor even today none has put in appearance on her behalf. 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 39571 of 2017 on 1.3.2018. This settlement/agreement was arrived at before the Mediator appointed, namely, Ms. Reeta Kohli, and the said settlement/agreement is duly signed by the parties. In terms of the compromise, the petitioners herein have made the payment of ₹35 lakhs to the respondent-wife as full and final settlement for the past, present and future maintenance, which is evident from the orders dated 7.3.2018 and 26.3.2018. In terms of the said agreement, respondent No.2 had agreed to make a statement for quashing of the instant FIR on receipt of full and final payment of ₹35 lakhs.

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 of the Code of Criminal Procedure 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 to the effect before the court that she would help in getting the FIR quashed, continuation of proceedings under the instant 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 a statement to that effect. Consequently, this petition is allowed. FIR

No. 179 dated 30.6.2011 (Annexure P/1) registered under Sections 498-A/406 IPC at Police Station Kalanaur, District Rohtak, and all subsequent proceedings arising therefrom are hereby quashed.

6.12.2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No