

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

**CRM-M-17931-2015
Date of decision: 09.01.2018**

Sukhjinder Pal Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. B.S. Mann, Advocate,
for the petitioner.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

JAISHREE THAKUR, J.

1. This is a petition that has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 336 dated 15.08.2009 (Annexure P-1) under Sections 498-A, 406, 506 IPC, registered at Police Station Sadar, Amritsar, and all subsequent proceedings arising therefrom.

2. In brief, the facts are that the marriage of the petitioner with respondent No.2 was solemnized on 06.04.2008. Thereafter, on account of a dispute, respondent No.2 get the above referred FIR registered against the petitioner. A petition was also filed under Domestic Violence Act, 2005 and under Section 125(3) Cr.P.C. On account of the criminal proceedings pending between the parties, the matter was ultimately amicably resolved and it was decided that a sum of Rs. 4,29,000/- would be paid by the petitioner to the respondent wife towards her maintenance for the past, present and future alimony and that she would withdraw all cases lodged by her against the petitioner and his family members. It was further resolved

that a petition under Section 13-B of the Hindu Marriage Act, 1955 would also be filed for dissolution of the marriage by way of mutual consent. A sum of Rs. 4,29,000/- stood paid to the respondent as permanent alimony and on the basis of the statements recorded, a decree of divorce by mutual consent was issued by the District Judge, Amritsar on 19.10.2012. The petition filed under the Domestic Violence Act was also dismissed as withdrawn before the Lok Adalat on 20.04.2012. After dismissal of the said complaint and grant of divorce, the petitioner herein approached this Court for quashing of the said FIR in terms of the statements recorded before the District Judge, Amritsar that the respondent herein would have no objection in case the FIR is quashed.

3. Notice of the said petition was issued to respondent No.2 by this Court and appearance was caused on behalf of the respondent. The parties were directed to appear before the Illaqa Magistrate by this Court for getting their statements recorded regarding the genuineness of the compromise arrived at between the parties and that the respondent would have no objection to quashing of FIR. However, despite the said direction, the complainant-respondent No.2 failed to put in appearance before the trial Court to get her statements recorded. The matter has been posted subsequently on two occasions and there is no representation on behalf of the respondent wife despite service.

4. Learned counsel appearing on behalf of the petitioner prays for quashing of the FIR on the ground that the respondent is playing hide and seek with the Court and after having suffered a statement before the District Judge in proceedings initiated pursuant to the compromise that she would

ensure that the proceedings under the FIR should be quashed, she is failing to stand by her part of the compromise. It is argued that she has taken full payment of Rs. 4,29,000/-.

5. I have heard the counsel for the parties and have also perused the pleading and the copy of the statement recorded before the District Judge.

6. Undisputedly a statement of petitioner and respondent No. 2 was recorded before the Court of District Judge on 19.10.2012 at the time of granting divorce by mutual consent. The statement made by the petitioner and respondent No. 2 reads as under:

“My marriage was solemnized with the other petitioner on 6.4.2008 at Amritsar, according to Sikh rites and ceremonies. After the marriage, we cohabited together as husband and wife and out of this wedlock, no child was born. Due to basic temperamental differences we could not adjust with each other and despite our best efforts, we could not reconcile our differences. Now, at present, I am living separate from the other petitioner since 13.6.2009. There is no chance of our living together as husband and wife in future also. Now, we have mutually decided to dissolve our marriage by a decree of divorce.

We have amicably settled the matter in dispute. I have returned back all the dowry articles and other belongings to the other petitioner. I have paid Rs. 4,29,000/- in cash, from the other petitioner on account of my maintenance, past, present and future permanent alimony. Now, nothing is due against each other. I shall withdraw all the cases so filed by me against the other petitioner and his family members. I shall also ensure

quashing of the FIR No. 336 of 2008 from the Hon'ble High Court. Our marriage be dissolved accordingly."

7. A perusal of above statement coupled with the compromise mentioned above would show that it was categorically agreed between petitioner and respondent No. 2 that she would ensure that the FIR is quashed in the High Court. Respondent No. 2 cannot be allowed to make mockery of the Court proceedings, nor the statement made by her in the Court can be ignored. Respondent No. 2 cannot be allowed to act in a manner and take benefit under the compromise to the extent she stands benefited. After having benefitted and taken maintenance under the compromise, she cannot be allowed to back out from the compromise or to wriggle out of the statement made before the court. If it is allowed, there shall be no sanctity to the Court proceedings and the statements made by the witness and the parties before the Court.

8. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. 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 in terms of the compromise has received her permanent alimony and also suffered a statement before the District Judge that she would help in getting the FIR quashed, continuation of proceedings under the FIR would be an

abuse of the process of law. In similar circumstances, the Apex Court in Ruchi Agarwal vs. Amit Kumar Agrawal and others, (2005) 3 Supreme Court Cases 299 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, this writ petition stands allowed. FIR No. 336 dated 15.08.2009 (Annexure P-1) under Sections 498-A, 406, 506 IPC, registered at Police Station Sadar, Amritsar, and the all subsequent proceedings pending thereunder are hereby quashed qua the petitioners.

09.01.2018

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.