

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

CRM-M-24922-2017

Date of decision: 28.08.2018

Sikander Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Balbir Singh, Advocate,
for the petitioners.

Ms. Seena Mand, DAG, Punjab.

None for respondent No.2.

JAISHREE THAKUR, J. (ORAL)

1. This is a petition that has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 31 dated 07.03.2017 under Sections 498-A, 406, 506 417 IPC, registered at Police Station Machhiwara, District Khanna (Ludhiana) and all subsequent proceedings arising there under.

2. In brief, the facts are that petitioner No.1 and respondent No.2 solemnized a marriage on 04.04.2013 at Machhiwara, Tehsil Samrara, District Ludhiana as per Sikh rites and ceremonies. Thereafter, matrimonial differences arose between the parties which led to the filing of the above referred FIR. In the said FIR, it had been stated that there was a demand of

dowry and harassment meted out to the complainant-respondent No.2 at the hands of her husband and in-laws. After the registration of the FIR, the matter was compromised between the parties with the intervention of family members and other respectables. The grievances were settled and incorporated in a settlement deed, wherein it was decided that petition under Section 13-B of the Hindu Marriage Act would be filed for dissolution of the marriage. In terms of the said settlement, divorce petition was filed and divorce has been granted and permanent alimony, as determined under the agreement, has already been paid. In terms of the settlement/agreement, it was further decided that Sharanjit Kaur-respondent No. 2 would give her affidavit/statement as per requirement to petitioner No.1 to quash FIR No. 31 dated 07.03.2017 under Sections 498-A, 406, 506 417 IPC, registered at Police Station Machhiwara, District Khanna (Ludhiana). Thereafter, the petitioners preferred the instant petition for quashing of the FIR on the ground that the petitioner No.1 had paid an amount of ₹ 2,50,000/- as full and final settlement i.e. ₹ 1,25,000/- in the office of D.S.P, Samrala and ₹ 1,25,000/- at the time of statement of the parties in proceedings under Section 13-B of the Hindu Marriage Act.

3. On notice of the petition, despite service there has been no appearance on behalf of the complainant-respondent No.2 nor has any reply been filed to the said quashing petition.

4. Learned counsel appearing on behalf of the petitioners prays for quashing of the FIR on the ground that respondent No.2 is playing hide

and seek with the Court and after having suffered statement before the Addl. Civil Judge (Sr. Divn.), Samrala in the proceedings initiated pursuant to a compromise/settlement between the parties that she would ensure that proceedings pending under FIR No. 31 dated 07.03.2017 under Sections 498-A, 406, 506 417 IPC, registered at Police Station Machhiwara, District Khanna (Ludhiana) would be quashed, she has failed to stand by her compromise. It is submitted that she has taken a sum of ₹ 2,50,000/- as her past, present and future maintenance and permanent alimony.

5. I have heard learned counsel for the petitioners 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. A perusal of the decree of divorce and reference to the joint statement made in proceeding thereunder would show that it had been categorically agreed between petitioners and respondent No.2 that she would ensure that proceedings pending under FIR No. 31 dated 07.03.2017 under Sections 498-A, 406, 506 417 IPC, registered at Police Station Machhiwara, District Khanna (Ludhiana) would be quashed. Respondent No.2 cannot be allowed to make a mockery of Court proceedings and the statement made by her in Court cannot be ignored, nor can she be allowed to act in a manner and take undue benefit under the compromise to the extent she stands benefited. After having benefited and accepting maintenance under the compromise, she cannot be allowed back out from the compromise or wriggle out of the statement made before the Court.

7. 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 respondent No.2 in terms of the compromise has received her permanent alimony and also suffered a statement before the Addl. Civil Judge (Sr. Divn.), Samrala 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 complainant has not contested the matter, the proceedings under the FIR deserve to be quashed. 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.”

8. In view of above discussion, this petition stands allowed. FIR No. 31 dated 07.03.2017 under Sections 498-A, 406, 506 417 IPC, registered at Police Station Machhiwara, District Khanna (Ludhiana) and all subsequent proceedings pending thereunder are hereby quashed.

28.08.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.