

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

Crl. Misc. M 27697 of 2016 (O&M)

Date of decision: March 20, 2018

Puneet Chopra and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Dr. Payel Mehta, Advocate,
for the petitioners.

Mrs. Anju Arora, Additional Advocate General, Punjab.

Ms. Urvashi—respondent No. 2 in person.

JAISHREE THAKUR, J.

1. The instant petition has been preferred under Section 482 of the Code of Criminal Procedure (for short '**the Act**') for quashing of FIR No. 33 dated 11.05.2012 under Sections 406 and 498-A Indian Penal Code registered at Police Station Women Cell, Ludhiana, along with all subsequent proceedings arising there under in the light of the compromise arrived at between the parties.

2. In brief the facts as stated are, that petitioner No. 1 and respondent No. 2 solemnized a marriage as per Hindu rites and rituals on 02.06.2010 at Ludhiana, out of which wedlock a minor child was born. On account of matrimonial differences, FIR No. 33 dated 11.05.2012 was registered against petitioner No.1 and his family members by the complainant- respondent No. 2 (hereinafter referred to as respondent No. 2)

under Sections 406 and 498-A Indian Penal Code at Police Station Women Cell, Ludhiana. With the intervention of the parties, a compromise was arrived at, wherein it was agreed that since the parties had been residing separately and there was no scope of rehabilitation, the parties would seek divorce under Section 13-B of the Hindu Marriage Act. The past present and future maintenance along with permanent alimony to be given to respondent No. 2 by the petitioner was settled at ₹16, 24,700/- out of which ₹9 lakhs was paid on 31.5.2015 at the time of first motion under Section 13-B of the Hindu Marriage Act and the balance was paid at the second motion petition, at the time of granting of divorce by mutual consent. In the compromise, it was also agreed between the parties that all pending litigation against each other would be withdrawn, while further agreeing that respondent No. 2 would cooperate in quashing of FIR No. 33 dated 11.05.2012 under Sections 406 and 498-A Indian Penal Code registered at Police Station Women Cell, Ludhiana. On the basis of the said compromise, a joint statement of both parties was also recorded. It is thereafter that the instant petition for quashing of a FIR was filed in this Court. Notice was issued and respondent No. 2 has appeared in person. A short reply has also been submitted.

3. Dr. Payal Mehta, learned counsel appearing on behalf of the petitioners, submits that the proceedings under the FIR should be quashed on account of the compromise that has been arrived at between the parties. It is argued that in terms of the compromise, the entire amount of rupees stand paid to respondent No. 2 and, therefore, continuation of proceedings under the FIR would be nothing but an abuse of process of law and harassment to

petitioner No.1 and his family members.

4. Per contra, Ms. Urvashi respondent No. 2 appearing in person, argues that an amount of ₹1,24,700/-, which was deposited by petitioners No. 2 and 3 in lieu of dowry articles, vide demand draft on 21.12.2012 in the case titled as State of Punjab versus Puneet Chopra pending before the trial court has yet to be released in her favor. It is argued that even though divorce has been granted under Section 13-B of the Hindu Marriage Act, in the statement given before the Family Court, it was specifically stated that this amount is yet to be released and, therefore, till such time the amount is not released, proceedings under the FIR ought not be quashed. It is further argued that the petitioners had filed an application for getting the bank draft released from the court file, but the said application was dismissed on the ground that the bank draft in question was given by the petitioners in view of dowry articles entrusted to the petitioners, and the said application was dismissed on 05.08.2014.

5. I have heard the counsel for the parties and with their assistance have also perused the pleadings.

6. The question that arises is, whether FIR No. 33 dated 11.05.2012 under Sections 406 and 498-A Indian Penal Code registered at Police Station Women Cell, Ludhiana, along with all subsequent proceedings deserves to be quashed?

7. Normally when the matter has been compromised between the parties and dispute settled, the complainant does not raise an objection to the quashing of the FIR since it is one of the terms and conditions of the compromise arrived at. But in the instant case, respondent No. 2 has

vehemently opposed the quashing petition filed under Section 482 of the Code on the ground that an amount of ₹1,24,700/- lying in the case titled as State Versus Puneet Chopra is yet to be released in her favor. This amount was deposited before the trial court in proceedings initiated under the FIR by petitioners No. 2 and 3 at the time of applying for bail. Respondent No. 2 claims that this amount is due to her and an application filed for return of the same by the petitioners has been dismissed by the learned Judicial Magistrate Ist Class, Ludhiana, by an order dated 05.08.2014 the ground “that the same has become case property and cannot be returned to the accused persons”.

8. For this court to arrive at any conclusion, the joint statement of Puneet Chopra—petitioner No. 1 and Urvashi—respondent No. 2 recorded before learned District Judge, Ludhiana, on 31.05.2016 in proceedings under Section 13-B of the Hindu Marriage Act, after a compromise had been arrived at between the parties, needs to be referred to. In the statement, it was agreed “*we lived together, but soon we discovered that we are not made for each other. From the wedlock, a female child namely Priyashi was born on 28.11.2011, who is presently living with petitioner No. 2 and will remain in care and custody of petitioner No. 2 and petitioner No. 2 will be solely responsible for the care, custody, upbringing, education and other expenses including marriage of the aforesaid minor daughter namely Priyashi and petitioner No. 1 will not claim custody of said minor daughter Priyashi from petitioner No. 2 in future. We have settled all our interese claims amicably in a lump sum amount of Rs. 16 ,24,700/- in lieu of past present and future maintenance as well as permanent alimony of petitioner No. 2 and that of*

aforesaid minor daughter Priyashi, out of which an amount of Rs. 8 Lacs has been received by petitioner No. 2 from petitioner No. 1 today in the court by way of demand draft bearing No. 455077 dated 05.05.2016 and apart from that petitioner No. 2 has also received another amount of Rs. 1 lakh in cash from petitioner No. 1 today in the court. Remaining settled amount of Rs. 7, 24,700/- will be paid by petitioner No. 1 to petitioner No. 2 at the time of recording statement of second motion in this petition. Apart from that, petitioner No. 2 has also received a cheque bearing No. 116659 drawn on State Bank of Patiala, Housing Board Colony, Ambala Cantt amounting to Rs. 6 Lacs as security from petitioner No. 1 and the same will be returned by petitioner No. 2 to petitioner No. 1 at the time of recording statement of second motion in this petition and in lieu of that cheque an amount of Rs. 6 lakh in the shape of demand draft will be handed over by the petitioner No. 1 to petitioner No. 2 at that time and that of Rs. 1,24,700/- in cash will also be paid by petitioner No. 1 to petitioner No. 2. We undertake to withdraw all civil and criminal litigation whatsoever nature which have been filed by us against each other or our respective family members from respective courts. Petitioner No. 2 further undertakes to suffer requisite statement before the Hon'ble High Court of Punjab and Haryana at Chandigarh or before the Illaqa Magistrate for quashing of FIR No. 33 of 2012 under sections 406 and 498-A IPC Police Station Women Cell, Ludhiana, pending in the court of Sh. Jagjeet Singh Judicial Magistrate 1st Class Ludhiana."

9. Reading of the joint statements recorded on 31.5.2016 would clearly indicate that a sum of ₹16,24 700/- had been agreed upon as full and

final settlement '*in a lump sum amount of Rs. 16,24,700/- in lieu of past present and future maintenance as well as permanent alimony of petitioner No. 2 and that of aforesaid minor daughter Priyashi*'. In the joint statement, there is no mention of the release of amount of ₹12,47,000/- deposited by petitioners No. 2 and 3 in the trial court, in favor of respondent No. 2 as well. Interestingly enough, it is only at the time of recording of statement on 2.1.2017 in second motion petition under Section 13-B of the Hindu Marriage Act, that a claim has been made for the release of the amount and that too after the filing of the present quashing petition on 9.8.2016. Respondent No. 2, while recording the statement in the second motion petition under Section 13-B of the Hindu Marriage Act, agreed that she had received a sum of "*Rs 16,24,700/- settled as lump sum alimony towards past, present and future including dowry articles except demand draft of Rs. 1,24,700/- lying in the case titled State Vs. Puneet Chopra which is pending in the court of Sh. Jagjeet Singh, JMIC, Ludhiana. An amount of Rs. 1,24,700/- which stands deposited by the parents of the petitioner No.1 in lieu of dowry articles vide bank draft in the case titled State Vs. Puneet Chopra and others for which quashing proceedings are pending before the Hon'ble High Court of Pb. Haryana & Chandigarh. I will be bound by the adjudication/order of the Hon'ble High Court in respect of the said bank draft of Rs. 1,24,700/-..*"

10. After going through the initial statement recorded on 31.5.2016 and the subsequent statement on 2.1.2017 and considering the argument raised by respondent no 2 that the Judicial Magistrate Ist Class, Ludhiana by order dated 05.08.2014 has refused to return the bank draft to the petitioners

as the same is case property, this court is of the firm opinion that the objection raised to quashing of a FIR is not sustainable.

11. Admittedly, petitioner No. 1 and respondent No. 2 decided to resolve their differences after the registration of the FIR and the proceedings initiated thereunder. The terms and conditions must have been arrived at prior to the joint petition being filed. However, the settlement arrived at between themselves was reduced on a joint statement in proceedings under Section 13 B of the Hindu Marriage Act, before the learned District Judge, Ludhiana. In the statement recorded on 31.5.2016, there is no mention of the release of a sum of ₹1,24,700/- deposited by petitioners No. 2 and 3 in view of one gold ring and one gold pendant set, lying deposited with the Judicial Magistrate Ist Class, Ludhiana, in favor of respondent No. 2. The compromise was effected in May 2016 for ₹16, 24,700/- and there seems to be no rationale for this odd figure until and unless it is an amount that would also be inclusive of ₹1,24,700/-lying deposited with the Judicial Magistrate Ist Class, Ludhiana. Normally, when settlements in such cases are arrived at, the trend is to settle for an amount which is in round figure. The respondent cannot get any benefit from the order dated 05.08.2014 passed by Judicial Magistrate Ist Class, Ludhiana, declining to release the demand draft in favour of the petitioners, as the compromise was effected subsequent thereto.

12. A perusal of the first joint statement made in proceeding would show that it had been categorically agreed between petitioner No.1 and respondent No.2 that she would ensure that proceedings pending before the Judicial Magistrate Ist Class, Ludhiana, would be quashed by suffering a

statement before the High Court or the Magistrate. It is only subsequent thereto that she suffered statement at the second motion petition seeking release of the amount lying with the Judicial Magistrate Ist Class, Ludhiana. It is also interesting to note that respondent No. 2 did not shy away from receiving the balance of the settled amount of ₹7,24,700/- at the time of getting her divorce and leaving it open to be bound by the decision in the quashing petition. The statement recorded reads *“I will be bound by the adjudication/order of the Hon’ble High Court in respect of the said that draft of Rs. 1,24,000.”* The divorce has already been granted. The respondent No.2 having received the entire amount as settled between themselves in a joint statement suffered on 31.5.2016 cannot be permitted to act in such a manner and take undue benefit under the compromise to the extent she stands benefited by opposing the quashing petition.

13. 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. It is 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 exercise power to 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 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.

14. In view of above discussion, this petition stands allowed. FIR No. 33 dated 11.05.2012 under Sections 406 and 498-A Indian Penal Code registered at Police Station Women Cell, Ludhiana, along with all subsequent proceedings is hereby quashed.

15. Petition stands allowed.

March 20, 2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No