

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

CRM-M-2773-2015 (O&M)

Date of decision: 22.02.2018

Sunil Khanna and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate
for the petitioners.

Mrs. Anju Arora, Addl. A.G., Punjab.

Mr. Sandeep Arora, Advocate
for respondents No. 2 and 3.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 84 dated 12.07.2013, registered under Section 406 and 498-A of the Indian Penal Code at Police Station City Phagwara, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom including challan dated 01.08.2014.

2. Few brief facts need to be noticed for proper adjudication of this case. A marriage came to be performed between petitioner No. 3 Tarun Khanna and respondent No. 3 Litashi on 04.12.2011. Thereafter, the parties left for Canada and it is while they were residing there, the differences arose between the married couple. Since the marriage ran into trouble, the aforesaid FIR was got registered here in India at the behest of the father of respondent No. 3 against the petitioners herein. Thereafter, the matter was

investigated and a challan was put up. After several attempts, the matter was eventually compromised and it was agreed between the parties to part ways. Firstly, a settlement was arrived at between the parties on 03.12.2013 (Annexure P-3) before the Mediation and Conciliation Centre of this Court which did not fructify, however, eventually, the parties arrived at an out of court settlement on 01.02.2014 and the same was reduced in writing, which is Annexure P-5. In terms of the said compromise, a sum of Rs. 30 Lakh was to be paid to the daughter of the complainant i.e. respondent No. 3 herein. It was further agreed that the parties would have no objection in case the instant FIR is quashed while further agreeing that a divorce petition under Section 13-B of the Hindu Marriage Act would also be filed. A sum of Rs. 6.5 Lakh was handed over to respondent No. 2 at the time of grant of anticipatory bail to petitioners No. 1 and 2. The balance amount of Rs. 23.5 Lakh was yet to be paid. Despite the said agreement that had come into existence between the parties, which had duly been signed by complainant Bal Kishan Wadhwa, few differences arose between Litashi (daughter of the complainant) and Sunil Khanna-petitioner No. 1 (uncle of Tarun Khanna). Again, an effort was made to resolve the differences between the parties since during the interregnum, a divorce had already been granted by the Superior Court of Justice, Ontario, Canada on 09.05.2017. By the said order, the marriage stood dissolved. Respondent No. 3 Litashi had also preferred a claim petition for settlement of all disputes/assets in Canada which also stood withdrawn. The only issue that remained to be sorted out was of execution of certain documents. An offer was made that in case respondent No. 3 was willing to execute a document mainly an addendum to the compromise dated 01.02.2014 (Annexure P-5)

and a document titled as 'full and final release', the petitioners herein would hand over the balance amount of Rs. 23.5 Lakh totaling a sum of Rs. 30 Lakh which would be in terms of the settlement arrived at between the parties.

3. Today, the matter has been taken up for hearing and Mr. Sandeep Arora, Advocate is present along with Mr. Bal Kishan Wadhwa (respondent No. 2) and has handed over the copies of an addendum to the compromise dated 01.02.2014 as well as a document titled as 'Full and Final release', both dated 09.11.2017, originals of which have been retained on the court file marked as 'A' and 'B'. These documents have been executed and witnessed at Ontario, Canada. Along with the said documents, an affidavit of respondent No. 3 Litashi has also been furnished in the Court in which respondent No. 3 has stated that she would have no objection in case the instant FIR is quashed against the petitioners herein while confirming that the divorce granted by the Superior Court of Justice, Ontario, Canada is acceptable to her and applicable as well. It is also stated in the affidavit that she would have no objection if her father receives the said amount on her behalf and that if her father gives a statement regarding quashing of the FIR and she would be bound by the said statement. Affidavit of respondent No. 3 dated 09.08.2017 and photocopy of affidavit dated 20.07.2017 are also taken on record as Mark 'C' and 'D'.

4. Recognizing the settlement that was arrived at between the parties, acknowledging receipt of Rs. 23.5 Lakh by way of demand drafts as balance payment of Rs. 30 Lakh which was to be given as full and final settlement, the statement of the complainant has been recorded separately.

Mr. Bal Kishan Wadhwa (complainant) signs the said statement duly

witnessed by his counsel.

5. Therefore, the matter stands settled amicably in terms of the compromise entered into between the parties, full payment has been made and received by Mr. Bal Kishan Wadhawa, the father of respondent No. 3 on her behalf.

6. Statement of Sunil Khanna, petitioner No. 1, has also been recorded separately today in this Court, wherein he, on oath, has stated as under:

“Stated that after disposal of CRM-M-2773-2015, no further litigation would be initiated/instigated by Tarun Khanna or any other family member against Ms. Litashi d/o Sh. Bal Kishan Wadhwa or her family members in respect of any dispute that would arise out of her marriage that stands dissolved.”

7. Learned Addl. Advocate General, Punjab also submits that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR, in view of the law laid down by the Hon'ble Supreme Court.

8. I have heard learned counsel for the rival parties and gone through the record.

9. In a decision, based on compromise, none of the parties is a loser. Rather, a compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

10. Consequently, keeping in view the fact that the dispute has been amicably settled and in view of the law laid down by the Hon'ble Supreme Court in *Narinder Singh & others vs. State of Punjab & another, (2014) 6 SCC 466*, this petition is allowed and FIR No. 84 dated 12.07.2013, registered under Section 406 and 498-A of the Indian Penal Code at Police Station City Phagwara, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom including challan dated 01.08.2014 are quashed qua the petitioners herein.

11. Needless to say that since the marriage between the parties stands dissolved, petitioner No. 3 (Tarun Khanna) would not harass the daughter of the complainant in any manner whatsoever.

22.02.2018

Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No