

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-3872 of 2016
Date of Decision: 12.3.2018**

Gurdev Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Petitioner No. 1 in person along with
Mr. Vishal Munjal, Advocate
for the petitioners.

Mr. Rahul Rathore, DAG, Punjab.

None for respondent No. 2.

ANITA CHAUDHRY, J

The instant petition is for quashing of FIR No. 64 dated 7.5.2015 registered under Sections 406, 498-A IPC, Police Station Fatehgarh Sahib, District Fatehgarh Sahib and all the consequent proceedings arising out of the same, on the basis of compromise arrived at between the parties.

Vide order dated 12.8.2016, the parties were directed to get their statements recorded before the Area Magistrate/trial Court and the Area Magistrate/trial Court was directed to send its report with regard to validity of the compromise.

The trial Court after recording the statements of the parties, has sent its report along with the statements of the parties. The complainant made a statement that her marriage was dissolved under Section 13-B of the

Hindu Marriage Act and her husband did not adhere to the terms of the settlement arrived between them. She stated that after the divorce decree, her husband did not allow her to meet the children. She further stated that it was settled that the dowry articles will be returned to her but after divorce, he had sold her dowry articles and she had only received Rs. 95,000/- and as such there is no compromise between them. In view of the statements of the parties, the trial Court had reported that the parties have not reached at a compromise.

Counsel for the petitioners contends that the statements made in the proceedings under Section 13-B of the Hindu Marriage Act have been placed on record which will show that the complainant had entered into a settlement and had also admitted that the children would remain in the custody of petitioner No. 1-Gurdev Singh and that she would give a statement in the Court for quashing of the FIR and now she has turned around after obtaining the benefits and she had received the amount. Counsel further submits that they have placed two photographs on record.

Petitioner No. 1 is also present. He states that the complainant has got married and has a child. The photographs have been made a part of the record.

In the statement made before the Court below in the proceedings under Section 13-B of the Hindu Marriage Act, the complainant had stated that the custody of her children would remain with the father and that she would have no objection and would make a statement in the quashing petition. The complainant had received permanent alimony but thereafter refused to make a statement in favour of the petitioners.

Considering the fact that she had received the benefit she cannot be allowed

to turn around.

Notice had been given to respondent No. 2 in this petition but she failed to appear despite service.

Considering the conduct of the complainant, it is a fit case where the FIR and the subsequent proceedings should be quashed. The complainant cannot be allowed to change her stand after obtaining the benefit of the settlement.

The petition is allowed and the aforesaid FIR and all consequent proceedings conducted on the basis thereof are quashed.

**(ANITA CHAUDHRY)
JUDGE**

March 12, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No