

Crl. Misc. No.M-39864 of 2017 (O&M)

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

**Crl. Misc. No.M-39864 of 2017 (O&M)
Date of decision : 02.08.2018**

Deepak

.....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vivek Salathia, Advocate
for the petitioner(s).

Mr. Jagmohan Ghumman, DAG, Punjab.

ANITA CHAUDHRY, J.

The petitioner is seeking quashing of FIR No. 21 dated 28.01.2016, registered under Section 354-C IPC & Sections 66-A and 67 of the Information Technology Act, Police Station C-Division, Amritsar.

Notice was given to respondent no.2 who has chosen not to appear.

Counsel for the petitioner contends that the complaint in this case is by the wife of the petitioner and there were several other matters and the parties had settled the same vide settlement Annexure P-2 arrived at in April 2016 and specific statement was given by Reena that she would have no objection if this FIR was quashed. The counsel says that respondent no.2 had received the amount and a divorce by mutual consent was passed and thereafter, she did not appear in the quashing petition bearing no. CRM-M-

Crl. Misc. No.M-39864 of 2017 (O&M)

22576-2016. The counsel states that the parties in that petition were directed to get their statements recorded but she failed to appear despite two opportunities and therefore, that petition was withdrawn and this petition was filed. Counsel urges that she has taken benefit of the compromise and has also received the amount and she could not back out of the arrangement.

Hon'ble the Apex Court in **Ruchi Agarwal Vs. Amit Kumar Agarwal** 2004(4) RCR (Crl.) 949 has held as under:-

“4. In the compromise petition, referred to herein above, both the parties had agreed to withdraw all the civil and criminal cases filed by each against the other. It is pursuant to this compromise, the above divorce as sought for by the appellant was granted by the husband and pursuant to the said compromise deed the appellant also withdrew Criminal Case No. 63 of 2002 on the file of the Family Court, Nainital which was a complaint filed under Section 125 of the Criminal Procedure Code for maintenance. It is on the basis of the submission made on behalf of the appellant and on the basis of the terms of the compromise, said case came to be dismissed. However, so far as the complaint under Sections 498A, 323 and 506 Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act is concerned, which is the subject matter of this appeal, the appellant did not take any steps to withdraw the same. It is in those circumstances, a quashing petition was filed before the High Court which came to be partially allowed on the ground of the territorial jurisdiction, against the said order the appellant has preferred this appeal.

5. From the above narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also undertook to withdraw all proceedings civil and criminal filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under Sections 498A, 323 and 506 Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent-husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

6. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13(B) of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her

Crl. Misc. No.M-39864 of 2017 (O&M)

3

she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

7. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where Section 125 Criminal Procedure Code proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. 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.”

Respondent no.2 had entered into a settlement with the petitioner and had agreed to withdrawal of all the litigations and had made a specific statement with respect to the FIR No.21 dated 28.01.2016, registered under Section 354-C IPC and Sections 66-A and 67 of the Information Technology Act at Police Station C-Division, Amritsar. Subsequently, the parties had filed a joint petition under Section 13-B of the Hindu Marriage Act and respondent no.2 had received the amount and she could not back out of the settlement after taking the benefit of the same.

Crl. Misc. No.M-39864 of 2017 (O&M)

In this view of the matter, the Court is of the considered opinion that continuance of prosecution against the petitioner would be an abuse of process of law. Reference can also be made to **Mohd. Shamim Vs. Smt. Nahid Begum, 2005(1) RCR(Crl.) 697, Rajesh & Ors. Vs. State of Haryana & Ors. 2013(1) Law Herald (P&H) 909, Shlok Bhardwaj Vs. Runika Bhardwaj & Ors. 2015(1) RCR(Crl.) 249 and Jitender Bhargav Vs. State of Haryana & Anr. (Crl.Misc.No.M-34829 of 2014, decided by this Court on 21.05.2015).**

There is no legal impediment in exercising the powers under Section 482 Cr.P.C. considering the facts of the case. Therefore, in view of the discussion made above, the instant petition is allowed and the impugned FIR and consequent proceedings thereto, qua petitioner are quashed.

02.08.2018

Sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No