

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

CRM-M-5169-2017

Date of decision: 06.02.2018

Vikas Bhardwaj

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajiv Sharma, Advocate,
for the petitioner.

Mr.P.P. Chahar, DAG, Haryana.

None for respondent No.2.

JAISHREE THAKUR, J. (ORAL)

1. This is a petition that has been filed under Sections 482 and 483 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 635 dated 20.08.2014 under Sections 323, 406, 498-A and 506 IPC, registered at Police Station Civil Lines Karnal and all subsequent proceedings arising there under .

2. In brief, the facts are that the petitioner and respondent No.2 solemnized a marriage on 21.02.2011 according to Hindu rites and ceremonies at Karnal. 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 before the District Judge, Family Court, Karnal and registered as HMA Case No. 581 of 2016, instituted on 30.04.2016. Ultimately a decree of divorce was granted on 04.11.2016. At the time of granting the decree of divorce, the District Judge, Family Court, Karnal noted the terms of the settlement made in favour of respondent No.2 towards her present, past and future maintenance as well as permanent alimony. It was noted that an amount of ₹ 5,00,000/- was to be paid by cash or demand draft at the time of first motion statement and the remaining amount of ₹ 5,50,000/- would be paid at the time of second motion statement. In proceedings under Section 13-B of the Hindu Marriage Act a joint statement of the parties was also recorded on 30.04.2016 in which it was stated that with the intervention of Panchayat they had settled their all disputes while acknowledging receipt of ₹ 5,00,000/- and admitting that the remaining amount of ₹ 5,50,000/- would be paid at the time of second motion statement. In the joint statement, it was further stated that Annu-respondent No. 2 would be bound to give her affidavit/statement as per requirement to petitioner to quash the proceedings pending in the Court of Judicial Magistrate Ist Class, Karnal. Thereafter, the petitioner preferred the instant petition for quashing of the FIR on the ground that the petitioner had paid an amount of ₹ 10,50,000/- as full and final settlement 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, appearance was caused on behalf of respondent No.2, she was given time to file reply as far back as 24.04.2017. The matter was adjourned on subsequent occasions and finally taken on 30.11.2017 giving last opportunity to respondent No.2 to file reply. The matter was taken up today and 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 petitioner 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 District Judge, Family Court in the proceedings initiated pursuant to a compromise/settlement between the parties that she would ensure that proceedings pending before the Judicial Magistrate Ist Class, Karnal would be quashed, she has failed to stand by her compromise. It is submitted that she has taken a sum of ₹ 10,50,000/- as her past, present and future maintenance and permanent alimony.

5. I have heard learned counsel for the petitioner 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 petitioner and respondent No.2 that she would ensure that proceedings pending before the Judicial Magistrate Ist Class, Karnal 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 the respondent 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. 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. 635 dated 20.08.2014 under Sections 323, 406, 498-A and 506 IPC, registered at Police Station Civil Lines Karnal, and the all subsequent proceedings pending thereunder are hereby quashed.

06.02.2018

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.