

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

(I)

CRM-M-3476-2016 (O&M)
Date of Decision:- 7.11.2019

Rattan Singh and others

... Petitioners

Versus

State of Haryana and others

... Respondents

(II)

CRM-M-33219-2016 (O&M)

Umed Singh Dhouchak

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Virender Kumar, Advocate for the petitioner(s).

Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

Mr. P.S. Sullar, Advocate for respondent No.3.

GURVINDER SINGH GILL, J.

1. This order shall dispose of the aforesaid two petitions seeking quashing of FIR No.706 dated 14.8.2015 registered at Police Station City, District Karnal under Sections 342, 354, 376-B, 506, 509 and 34 of Indian Penal Code. Both the petitions are being taken up together as it is the same FIR which has been challenged in both the petitions. While one petition i.e. CRM-M-3476-

2016 has been filed on behalf of petitioners Rattan Singh, Kamla Devi, Veena and Neelam, the other petition i.e. CRM-M-33219-2016 has been filed on behalf of petitioner Umed Singh Dhouchak.

2. The FIR, which is annexed as Annexure P-6 in both the petitions, was lodged at the instance of respondent No.3-Manju, wherein it has been alleged that her marriage was solemnized with petitioner Umed Singh on 19.2.2007, wherein her parents had given various articles of dowry apart from an amount of ₹5 lacs in cash. After her marriage, she resided with her husband, mother-in-law and father-in-law at Gurgaon. It is alleged that since the complainant was not able to bear any child, she was harassed and tortured by her father-in-law Rattan Singh, mother-in-law Kamla Devi and sisters-in-law Meena and Neelam. It is alleged that her husband also used to support them for harassing her and due to which she, at times, went into depression. It is alleged that the accused conspired for getting the marriage of the complainant dissolved and her father-in-law Rattan Singh even threatened to commit suicide in order to pressurize the complainant to divorce her husband. It is alleged that on 11.9.2014 some petition was filed in the Court at Gurgaon and she was made to sign the same under pressure and was informed that the same is just a formality. It is further alleged that she was again taken to the Court on 12.3.2015 and on which date she was even threatened with a pistol. It is alleged that the complainant does not know that her marriage had been dissolved as she had been made to consume something and she was not able to understand as to what had transpired. It is alleged that even after divorce her husband continued establishing physical relations with her, which otherwise ought to be illegal as the marriage already stood dissolved. It is further alleged that after the

divorce her father-in-law said that since the complainant could not bear child from her husband, therefore, the complainant will have to bear the same from the lions of her father-in-law and thus tried to develop illicit relations with the complainant. Upon the same being objected to by the complainant there was a scuffle. The complainant has further stated that her husband and his family were residing with the complainant from 12.3.2015 to 11.8.2015.

3. The complainant, thus, alleged that her husband, despite having taken a divorce, had been establishing physical relations with her and had thus committed an offence of rape and that her father-in-law and mother-in-law had also conspired and had forcibly kept her. It is further alleged that the divorce had been obtained by deceiving her. The complainant has stated therein that all the articles of dowry, which had been given by her parents, be got returned to her. The complainant has stated that on 12.8.2015, when she came to the rented premises where she had earlier been staying with her husband, she saw the documents pertaining to divorce and it was thereafter that she left for the office of her husband Umed Singh in order to confront him but he had already left from his office. Although she tried to contact him on his phone but he could not be contacted. It is alleged that all the accused had conspired and connived with each other for committing the offences in question.
4. The learned counsel for the petitioners has submitted that the FIR is an absolute abuse of process of law, wherein the complainant, who had got her marriage with the petitioner Umed Singh Dhouchak dissolved by decree of divorce by mutual consent, has chosen to harass and torment the petitioner i.e. her ex-husband and other members of his family after getting divorce

when she came to know that after the divorce, her ex-husband has solemnized marriage with another lady, which the complainant found difficult to accept. The learned counsel has submitted that the decree of divorce was granted only after recording statement of the complainant on two occasions and after affording the complainant ample time of six months to think and deliberate about the matter and that since it was specifically agreed amongst the parties at the time of parting ways that everything had been fully settled amongst the parties.

5. The learned counsel has further submitted that the complainant has come out with a weird explanation in the FIR that the divorce had been obtained by fraud and deceit as well as by coercion, whereas the complainant had got her statement recorded in the Court i.e. before the District Judge, Family Court voluntarily out of her free will. The learned counsel has further submitted that the complainant has even gone to the extent of raising allegations against her father-in-law to the effect that even he had attempted to commit rape upon the complainant and which would clearly show the falsity of the allegations in the FIR and would give a peep into the mind of the complainant, who is simply bent upon harassing the petitioners. A prayer has thus been made for quashing of the FIR.
6. On the other hand, the learned counsel for the respondent/complainant has submitted that it is a case where the signatures of the complainant have been taken by way of deception and she was never made aware that the same were in respect of proceedings for grant of divorce. The learned counsel has further submitted that since even after the alleged divorce, the complainant's husband had been having physical relations with the complainant, the same,

in any case, would attract an offence under Section 376 of Indian Penal Code against the complainant's husband and also against other co-accused, who were all conniving with him. The learned counsel for the complainant has thus prayed for dismissal of the petitions.

7. The learned State counsel has submitted that since the matter has been investigated and challan has been presented, no case for quashing of FIR is made out at this stage.
8. Before proceeding to consider the rival submissions addressed before this Court, it will be beneficial to refer to some of the relevant events, which are stated below chronologically:

19.2.2007: Marriage of the complainant was solemnized with the petitioner Umed Singh Dhouchak and they started residing in Gurgaon.

11.9.2014: A petition under Section 13-B of Hindu Marriage Act for dissolution of marriage by mutual consent was filed by the complainant and her husband Umed Singh Dhouchak before the District Judge, Family Court, Gurgaon (Annexure P-1). On the same day, a joint statement (Annexure P-2) of both the parties was recorded, wherein they categorically stated as regards the settlement of their issues. The relevant extract from the said statement (Annexure P-2) reads as follows:

‘We have amicably resolved and settled all the issues pertaining to our respective claims, maintenance (past, present and future), Istridhan, properties and dowry etc. Both

the petitioners shall remain bound by the averments made in the petition.

We further undertake not to file any litigation in future and withdraw all the applications, if filed by both of us against each other or our respective family members pertaining to this marriage and the matters connected therewith'

After recording of statements of the parties on the first motion on 11.9.2014, the Family Court adjourned the matter for six months vide separate order dated 11.9.2014 (Annexure P-3).

12.3.2015: After expiry of the cooling-off period of six months, when the matter was again listed before the Family Court on 12.3.2015, both the complainant as well as her husband Umed Singh Dhouchak reiterated their statements recorded earlier and categorically stated that they cannot reside together and that their marriage be dissolved as there is no chance of re-union. It was again specifically stated that everything had been settled between the parties and nothing remains due towards either side and that no claim of any maintenance, alimony, property would be raised by either of the parties and that they would be bound by their earlier statement (Annexure P-2) recorded on 11.9.2014.

Pursuant to recording of the statement (Annexure P-4) on 12.3.2015, the learned District Judge, Family Court passed judgment and decree dated 12.3.2015 (Annexure P-5)

dissolving the marriage of the parties by decree of divorce
by mutual consent.

9. A perusal of the proceedings especially the statements of the parties recorded on first motion 11.9.2014 (Annexure P-2) and on second motion on 12.3.2015 (Annexure P-4) would show that the complainant had herself appeared before the District Judge, Family Court and had stated that the parties have agreed for getting their marriage dissolved as they could not reside together and there was no chance of re-union and that all the dues have been settled. The aforesaid statement was recorded not just on one occasion but on two occasions while affording the complainant sufficient time to rethink over the matter. It was only pursuant to recording of the statement on second motion on 12.3.2015 (Annexure P-4) that the Family Court, being satisfied with the statements of the parties, proceeded to pass a decree of divorce. Since the statement of the complainant was recorded in open Court before a Senior Officer of the rank of District Judge and who had not found anything unusual and had not found that the complainant was under the influence of any drug/intoxicant or was under any kind of pressure, this Court does not find any reason to discard the statement of the complainant recorded before the Family Court. Consequently, it is held that there was no coercion of any sought upon the complainant when her statements were recorded before the Family Court on 11.9.2014 (Annexure P-2) and on 12.3.2015 (Annexure P-4) and nor she was under influence of any intoxicant or drug etc. as is being claimed in the FIR.
10. In other words, she had voluntarily made her statement before the Family Court out of her free will for getting her marriage dissolved. If that be so,

then it is apparent that the complainant has now come out with a concocted version in the FIR to the effect that the divorce was obtained under some kind of threat, force or by administering her something. Consequently, it cannot be accepted that the complainant was never aware of the fact that her marriage stood dissolved vide judgment and decree dated 11.3.2015. The present case is apparently a case of blatant abuse of process of law, wherein complainant has attempted to harass her ex-husband and other members of his family by levelling false and obnoxious allegations. The complainant has even gone to the extent of levelling allegations that even her father-in-law attempted to rape her after her marriage was dissolved.

11. Continuance of the proceedings in such like case, which are not going to end in any fruitful result for the complainant would mean unnecessary harassing the petitioners who would have to face the rigours of trial for no reason. It will not be out of place to mention that the complainant in the FIR has taken contradictory stands inasmuch as while she has alleged that she was being coerced by her inlaws to divorce her husband and that her father-in-law even threatened to commit suicide in order to force her for the same but in the same breath she also stated that she was made to sign documents in the Court by telling her that they were routine kind of documents and has also even gone to the extent of stating that she had infact been administered something due to which she was not aware of anything.
12. It may here also be mentioned that although the complainant has levelled all kind of allegations in the FIR regarding her statement for divorce having been got recorded by deception and fraud, but till date, she has not chosen to challenge the decree of divorce.

13. In view of discussion made above, this Court is of the opinion that the present case is a fit case where inherent powers under Section 482 Cr.P.C. should be invoked to prevent the abuse of process of law and for imparting justice as in case the FIR is not quashed, the same would result in travesty of justice. Consequently, both the petitions are hereby accepted and the FIR No.706 dated 14.8.2015 registered at Police Station City, District Karnal under Sections 342, 354, 376-B, 506, 509 and 34 of Indian Penal Code and all the consequent proceedings are hereby quashed.

7.11.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No