

207.

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

CRM-M-51292-2018

Date of decision:04.07.2019

JAGMOHAN SINGH AND ANR

... Petitioners

versus

STATE OF PUNJAB AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. M.K. Dogra, Advocate, for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

Petitioners have filed the present petition under Section 482 Cr.P.C. for quashing the F.I.R. No.49 dated 15.03.2013 registered under Sections 498-A, 120-B of IPC at Police Station Sadar, Amritsar (Annexure P-1) and all subsequent proceedings arising therefrom, pending before the learned Judicial Magistrate Ist Class, Amritsar.

Counsel for the petitioners has argued that respondent No.2-complainant was married with petitioner No.1 on 20.02.2007 and out of this wedlock, one girl Kudratpreet Kaur was born on 08.08.2009. Since there were certain temperamental differences between the parties, they could not pull well and it is for this reason, the parties remained in litigation including the present FIR. Apart from filing the present FIR, respondent No.2 has filed a petition under Section 125 Cr.P.C. seeking maintenance before the learned Judicial Magistrate Ist Class, Amritsar wherein the matter was compromised

between the parties.

Mr. Dogra, learned counsel for the petitioners has argued that the aforesaid FIR was registered at the behest of respondent No.2 just to pressurize and blackmail the family members of the petitioners. Beside lodging the present FIR, respondent No.2 has also filed a petition under Section 125 Cr.P.C. before the learned Judicial Magistrate Ist Class, Amritsar. Petitioner No.1 has also filed a petition seeking divorce under Section 13 of Hindu Marriage Act and a final decree of divorce has been granted by the Court at Amritsar on 02.12.2015.

He refers to the compromise entered between the parties dated 09.04.2018 (Annexure P-2). However, he submits that after getting the compromise executed, the complainant has gone abroad. She has made a statement dated 09.04.2018 before the JMIC, Amritsar, whereby proceedings under Section 125 Cr.P.C. were pending, admitting the very fact of compromise between the parties. Moreover, pursuant to the aforesaid statement, the petition under Section 125 Cr.P.C. filed by the respondent No.2 was dismissed as withdrawn. Now since respondent No.2 is not coming forward, the petitioner is suffering adversely. Respondent No.2 despite having compromised the matter is not coming forward in the case, though she has been served through her brother Jasvir Singh, who is also not coming forward to contest this petition.

Learned counsel for the petitioners has stated that after passing of the decree of divorce, the petitioner as well as respondent No.2 have solemnized second marriage and are living happily.

Learned State counsel has filed reply by way of affidavit of Sarbjit Singh, PPS, Assistant Commissioner of Police, North, Amritsar City,

very factum of compromise dated 09.04.2018 (Annexure P-2) has been admitted between the parties. He refers to para 5 of the reply which reads as under:-

“5. That it is humbly submitted that the petitioners have contended that Final Decree of Divorce between the petitioner No.1 Jagmohan Singh and respondent No.2, Gurwinder Kaur was granted on 02.12.2015 by the Court at Amritsar and a mutual compromise was also effected on 09.04.2018 (Annexure P-2) between them, wherein it was decided that the respondent No.2, Gurwinder Kaur shall take all necessary steps to support the petitioners, right from Lower Courts upto Hon'ble High Court in getting the FIR in question quashed. It is submitted that the challan of the present case was presented against the accused/petitioners on 26/11/2013, whereas, the Decree of Divorce is alleged to be granted on 02.12.2015 and the compromise is alleged to be effected on 09/04/2018, which have not been produced before the Ld. Trial Court by the parties and no remedy has been availed on the behalf of the same from the Ld. Trial Court by the parties. As such, both these proceedings are not in knowledge of the Investigating and Prosecution Agency. Therefore, the present petition is liable to be dismissed.”

The statement made by respondent No.2 before the learned Judicial Magistrate Ist Class, Amritsar, on 09.04.2018 in pending proceedings under Section 125 Cr.P.C. reads as under:-

“Stated that my marriage was solemnized with Jagmohan on 20.02.2007 and out of this wedlock a daughter namely Kudratpreet Kaur born on 08.08.2009 after the marriage we are living separate since 07.07.2012. From the time of our separation minor

daughter Kudratpreet Kaur is living under my care and custody. Respondent Jagmohan Singh filed a Petition under section 13 of HMA which was decreed ex-parte in his favour by the court of Sh. Munish Arora ADJ Amritsar vide judgment dated 02.12.2015. At that time the minor daughter was also living with me. I have filed this Petition under section 125 of Cr.P.C. for myself and on behalf of my daughter and also registered a case vide FIR No.49 dated 15.03.2013 under section 498A/120-B of IPC, P.S. Sadar Amritsar against the Respondent and others, which is pending in the court of Ms. Ravi Inder Kaur ACJM, Amritsar. The Respondent shall file a Petition under section 482 of Cr.P.C. for quashing the above said case as per our compromise. The compromise is Ex.PX. I will appear in the court to make statement in respect to the above said quashing proceedings. The Respondent shall not claim the custody of minor daughter Kudratpreet Kaur from me in future throughout his life. He will not file any type of claim regarding the custody of minor daughter Kudratpreet Kaur in any competent court of law. I will not file any civil or criminal case against Gurwinder Kaur regarding this marriage. I will not file any case regarding maintenance for and on behalf of myself and my minor daughter. I will not file any case regarding the property of Respondent Jagmohan Singh. I will not claim any share in the property of Respondent Jagmohan Singh for me and on behalf of minor daughter Kudratpreet Kaur.”

It has been submitted by counsel for the petitioners that after the compromise having been arrived at between the parties, the complainant has gone abroad and now, no one is pursuing the said litigation. Moreover,

decree of divorce has already been passed in favour of the petitioner.

It has been brought to the notice of the court that the parties have remarried. Therefore, this Court finds that pendency of the present FIR is not going to yield any result, as the complainant has already suffered a statement before the learned Magistrate admitting the very compromise between the parties and she has specifically stated that she will appear in the court to make statement in respect of the proceedings including quashing of the FIR. Thus, in case the FIR in question is not quashed, the very purpose of the compromise would be a nullity. Moreover in the absence of complainant, she being in abroad, her brother has been served in the case and he has also not opted to contest this petition.

Accordingly, considering the fact that the matter has already been compromised between the parties, no useful purpose would be served to continue with the proceedings before the trial Court in the instant FIR.

Hon'ble Supreme Court in ***Gold Quest International Private Limited Versus State of Tamil Nadu and others-2014 (4) RCR (Criminal) 206*** has held that the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*** as also in the light of ***Gold Quest International Private***

15.03.2013 registered under Sections 498-A, 120-B of IPC at Police Station Sadar, Amritsar (Annexure P-1) and all subsequent proceedings arising therefrom are quashed qua the petitioners on the basis of compromise dated 09.04.2018 (Annexure P-2).

(HARI PAL VERMA)
JUDGE

04.07.2019
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No