

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

Crl. Misc. M 40315 of 2015 (O&M)
Date of decision: 12.2.2020

Malkiat Ram and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. K.S. Dadwal, Advocate,
for the petitioners.

Mr. S.S. Sandhu, AAG, Punjab.

JAISHREE THAKUR, J.

The petitioners herein seek to quash the FIR No. 352 dated 15.11.2007 registered under Sections 406, 498-A IPC, at Police Station Nakodar, District Jalandhar and all subsequent proceedings arising therefrom.

In brief, the facts are that a marriage was solemnized between petitioner No.1 and respondent No.2 on 24.3.2007 and on account of the matrimonial differences, the respondent—wife got the aforesaid FIR registered against the petitioners. During the pendency of the investigation of the FIR, the parties settled the dispute and executed a '*talaknama*' on 13.12.2007 and decided to live separately. In view of the settlement arrived at between the parties, statements were given to the police in this regard. Consequently, a cancellation report was prepared by the SHO, Police Station Nakodar, District Jalandhar, on 4.4.2015, which was approved by the SSP, Jalandhar on 25.4.2018. The said cancellation report was sent to the Court,

however, no orders were passed thereon. The Sub Divisional Judicial Magistrate, issued summons to respondent No.2, who appeared before the Court on 18.5.2015 and suffered a statement that she does not want to proceed with the present case as a compromise has already been effected between the parties. However, despite cancellation report and the statement given by the respondent—complainant herself, cancellation report was not accepted and the petitioners were summoned to face the trial under the said FIR.

Aggrieved against non-acceptance of the cancellation report despite the complainant stating that she has no objection in case the proceedings are quashed, the instant petition has been filed.

Learned counsel appearing on behalf of the petitioners herein contends that the marriage did not survive for any longer of time and consequently the parties decided to part ways. An inter-se settlement was arrived at between the parties and even '*talaknama*' was prepared in pursuance to which the parties are residing separately. It is submitted that the Sub Divisional Judicial Magistrate has erred in not accepting the cancellation report as the matter stands compromised and no useful purpose would be served in case the petitioners are put to trial. In support of his contention he relies on the judgment rendered in ***Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466***, wherein the Hon'ble Supreme Court has categorically held that the Courts should not have hesitation in quashing the non-compoundable offence in case a settlement has been arrived at between the parties and the same is genuine one.

I have heard learned counsel for the parties and with their assistance have perused the cancellation report, which is available on the record along with the statement suffered by the respondent—complainant before the Sub Divisional Judicial Magistrate. This Court has also perused talaknama (Annexure P/2). The impugned order would reflect that cancellation report has not been accepted as the offence under Section 498-A IPC is not compoundable as per provision of Section 320 of the Code of Criminal Procedure. However, there are catena of judgments of the Hon'ble Supreme Court available which have categorically held that in matrimonial dispute if the matter stands settled, the offence though non-compoundable can be quashed. Even otherwise, as held in **Gian Singh Versus State of Punjab and another, 2012 (4) RCR (Cr.) 543**, the courts can quash the FIR, if the chances of conviction are remote and bleak, as the instant case.

Consequently, keeping in view the fact that matrimonial dispute has been amicably settled between the parties and cancellation report of the FIR has been submitted by the police to the concerned Court, after recording the statements of the parties, this petition is allowed and FIR No. 352 dated 15.11.2007 registered under Sections 406, 498-A IPC, at Police Station Nakodar, District Jalandhar and all subsequent proceedings arising out of the same are quashed.

The petition stands disposed of.

12.2.2020
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No