

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

Crl. Misc. M- 4543-2017 (O&M)

Date of Decision: February 10, 2020

Krishan Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K.B. Raheja, Advocate
for the petitioners.

Mr. Davinder Bir Singh, D.A.G., Punjab.

None for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 163 dated 17.08.2015 registered under Sections 406, 498-A, IPC at Police Station Sadar Fazilka, District Fazilka and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner would contend that after the registration of the said FIR the matter was compromised between the parties vide compromise dated 18.05.2016. In terms of the said compromise, the parties resolved to get separated and also got a divorce. It was agreed by the complainant that she would have no hesitation in case the FIR registered

by her against the husband be cancelled.

3. Learned counsel further contends that in terms of the compromise arrived at between the parties, the complainant and the petitioner filed a petition under Section 13-B (1) of the Hindu Marriage Act for dissolution of marriage by mutual consent, in which the statement of the complainant also got recorded. In that statement, she had undertaken to withdraw all cases pending in different Courts of law, instituted by her against the petitioner and his family members. Consequent to the filing of the petition under Section 13-B of the Hindu Marriage Act, statements under the second motion stage were recorded and ultimately a divorce was granted by way of mutual consent by the Addl. District Judge Fazilka on 17.11.2017. It is thereafter, that this petition has been filed seeking quashing of the FIR in question. Learned counsel for the petitioner contends that the petition under Section 13-B of the Hindu Marriage Act was allowed only after the statement of the complainant got recorded wherein she categorically undertook to withdraw all cases pending and instituted qua the petitioner. However, after having availed all benefits of said compromise, she has not come forward to get proceedings quashed under said FIR.

4. I have heard learned counsel for the parties and have gone through the record as well as the certified copy of the statement recorded by the complainant-Swaran Kaur before the Addl. District Judge, Fazilka at the time when the petition was pending under Section 13-B of the Hindu Marriage Act. Notice has been issued and despite service effected upon respondent No. 2, she has not put in appearance before this Court.

5. The question that would arise now is that whether the proceedings under the FIR ought to be quashed given the fact that the petitioners herein have already complied with their part of the terms and conditions as specified in the settlement agreement and taking into consideration the conduct and attitude of the complainant, who failed to put in an appearance, before the High Court. The conduct is such that this Court is left with the belief that the complainant wants to harass the petitioner-husband and his family members.

6. A similar question arose for consideration before the Supreme Court in a judgment rendered in **Ruchi Agarwal Vs. Amit Kumar Agarwal, 2004(4) RCR (Criminal) 949**, wherein the wife despite a compromise did not put in an appearance to get her statement recorded for withdrawal of cases filed by her under Sections 498-A and 506 of the IPC. The facts were similar as in the instant case and the Supreme Court in para 7 of the judgment came to hold that:-

“7.xx xx xx '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'.

7. The judgment as rendered in **Ruchi Agarwal** (supra) has subsequently been followed in **Mohd. Shamim vs. Smt. Nahid Begum, 2005 (1) RCR (Criminal) 697 and Shlok Bhardwaj Vs. Runika Bhardwaj and others, 2015 (2) SCC 721**, wherein it has been held that after the matter has been settled between the parties the wife is estopped from continuing

criminal proceedings. The judgment of *Mohd. Shamim vs. Smt. Nahid Begum*(supra) has subsequently been followed by this Court in '*Nirmal Sachdeva vs. State of Haryana and another, 2008 (27) RCR (Criminal)153*', '*Kamal Kishore and others vs. State of Punjab and another, 2006(2)RCR (Criminal) 342*' , and '*Naveen and others vs. State of Haryana and another 2019 Crl. LJ 1004*' in CRM-M-17367-2018 decided on 06.12.2018 and '*Ram Lal and others Vs. State of Haryana and another, 2008(2) RCR (Criminal) 823*'.

8. The ratio that can be culled out from these judgments is that after entering into a compromise between the parties and having the benefit under the said compromise, the wife cannot be permitted to back out of the compromise, which is a similar situation in the present case.

9. Even though the respondent-wife is not stepping forward to have her statement recorded for quashing of the FIR in the instant case, this Court is of the opinion that the proceedings under the FIR deserve to be quashed.

10. Accordingly, the petition stands allowed and FIR No. 163 dated 17.08.2015 registered under Sections 406, 498-A, IPC at Police Station Sadar Fazilka, District Fazilka and all subsequent proceedings arising out of the same as well as the proceedings under the FIR are quashed qua the petitioners.

February 10, 2020

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No