

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

Date of Decision: March 06, 2020

1. CRM-M-6047 of 2015 (O&M)

Jaspreet Kaur and another

... Petitioners

VERSUS

State of Punjab and another

... Respondents

2. CRM-M-22888 of 2018 (O&M)

Karamjeet Singh

..... Petitioner

VERSUS

State of Punjab and others

... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present Mr. Saajan Singla, Advocate
for the petitioners.

Mr. Davinder Bir Singh, DAG, Punjab.

JAISHREE THAKUR, J.(Oral)

1. By this common order, this Court proposes to dispose of both the above mentioned petitions since the facts of both the petitions are common.

2. The petitioner/s seek to quash the FIR No. 166 dated 26.04.2013 registered under Sections 406, 498-A of IPC at Police Station

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Zirakpur, District SAS Nagar that got registered at the behest of respondent No. 2.

3. In brief, the facts as stated are that a marriage was solemnised between respondent No. 2 and one Karamjeet Singh s/o Amar Singh on 11.11.2011 according to Hindu rites and ceremonies. The petitioners herein namely Jaspreet Kaur and Gurmit Singh are none other than the married sister of Karamjeet Singh and petitioner No. 2- Gurmit Singh is the brother of Karamjeet Singh (husband of complainant-respondent No.2). The petitioners herein seek the quashing of the FIR by contending that petitioner No. 1 had been residing in her own matrimonial home since her marriage and petitioner No. 2 has renounced the world and is presently a Mahant of Pracheen Shiv Mandir situated in Village Hamirgarh, District Sangrur. As the marriage between respondent No. 2 and brother of the petitioners was not successful, an FIR came to be registered at Police Station Zirakpur District SAS Nagar, Mohali, under Sections 406, 498-A IPC. On the basis of the allegations in the FIR an enquiry was conducted by the police and the mother namely Charanjit Kaur and father of the petitioners namely Amar Singh were found to be innocent. However, a challan was filed against the petitioners herein. In the meantime, respondent No. 2 and the brother of the petitioners herein filed a petition under Section 13-B of the Hindu Marriage Act on the basis of which both parties gave their statements before the District Judge, Patiala stating that all matters had been compromised, wherein it had been clearly stated that due to basic temperamental differences they could not adjust with each other despite best efforts and

had mutually decided to dissolve their marriage by a decree of divorce. It was further stated before the District Judge that the matter in dispute had been settled amicably and all dowry articles and other belongings had been returned to respondent No. 2 apart from stating that all terms and conditions agreed upon by the parties would be adhered to. The decree of divorce was allowed by the District Judge, Patiala on 06.04.2015.

4. Learned counsel appearing on behalf of the petitioners would contend that the challan that was presented against them is nothing but the abuse of process of law considering the fact that petitioner No. 1 was residing in her matrimonial home after having solemnised a marriage in the year 2000 i.e. 11 years prior to the marriage having been solemnised between respondent No. 2 and her brother and that petitioner No. 2 has renounced the world and is a Mahant at Pracheen Shiv Mandir in District Sangrur. It is contended that none of the parties were residing with respondent No. 2 or with their brother in their matrimonial home for any interference in their day to day life nor any attempt to cause harassment or demand of dowry was made. It is further argued that once the matter inter-se the parties had been settled between respondent No. 2 and their brother Karamjeet Singh by way of decree of divorce, continuance of proceedings under the FIR would tantamount to unnecessary harassment to the petitioners herein and therefore, the proceedings under the FIR deserves to be quashed.

5. A similar plea has been taken for quashing of the FIR by the husband- Karamjit Singh in Crl. Misc. Petition No.M- 22888 of 2018. It is

argued that it was only on account of matrimonial differences that arose between the parties, which they could not overcome that a petition for divorce was filed under Section 13-B of the Hindu Marriage Act, in which both parties had suffered a statement that on an oral compromise the parties have decided to part ways while further contending that the dowry articles etc. had been returned to the complainant- Sonia. She had categorically recorded a statement that the parties had amicably settled the matter and disputes and that she would be bound by the terms and conditions incorporated in the divorce petition.

6. Notice of motion was issued and appearance was caused on behalf of respondent No.2 as far back as 27th September 2016, however, no reply was filed. In fact, the Court gave last opportunity to file reply by an order dated 10th March 2017 and thereafter by an order dated May 12, 2017 the Court had directed that in case a reply of respondent No.2-complainant is not filed before the next date of hearing the matter would be heard based on the pleadings available on the record. A perusal of the orders would reveal that neither did the counsel put in an appearance nor any reply was filed. The Crl. Misc. No.M-6047 of 2015 filed by Jaspreet Kaur and another, sister and brother of husband of the complainant, is pending in this Court for the past 5 years and matter is being heard on the pleadings available as respondent No.2 has not put in an appearance to controvert any of the submissions made that the petitioners herein were residing separately and had nothing to do with the matrimonial life of the complainant and nor was there any demand of dowry, the same is taken to be an admitted fact.

Moreover, there is also a decree of divorce available on the record which would reflect that the complainant and the brother of the petitioners have part ways and have obtained a decree of divorce as far back as 2015 itself, in which proceedings it has been clearly stated by the complainant that the marriage did not survive on account of temperamental differences and all disputes stand settled. Therefore, this Court has no hesitation in quashing the proceedings initiated under the aforesaid FIR No.166 dated 26.04.2013 against the petitioners which has been challenged by way of Crl. Misc. No.M- 6047 of 2015.

While quashing the aforesaid proceedings initiated under FIR No.166 dated 26.04.2013, a reliance has been placed on a judgment of the Supreme Court rendered in ***Preeti Gupta and another Vs. State of Jharkhand and another, 2010(7) SCC 667***, wherein it has been held that these days there is an unfortunate tendency to rope in all family members when a matrimonial dispute arises between the parties. Even otherwise, the allegations as set out in the FIR pertaining to any demand of dowry or harassment at the hands of the petitioners herein are not enough to have constituted any offence under Section 406, 498A of the IPC. The allegations as set out are non-specific and general in nature.

7. So far as the allegations as set out against the petitioner in Crl. Misc. No.M-22888 of 2018, learned counsel for the petitioner in Crl. Misc. No.M-22888 of 2018, also argued that in fact the matter has been settled amicably between the parties and a decree of divorce has already been obtained as far back as in 2015, while submitting that a compromise had

been arrived at between the parties wherein it has been agreed that they would part their ways since they could not live together on account of temperamental differences. A reading of the said FIR would again reflect that there are general allegations that have been made against the petitioner and his family members without there being any specific details as to when the demand of dowry was made. In fact, the matter has been compromised between the parties in which it has clearly been stated that all matrimonial disputes stand settled. The complainant-respondent No.2 herein had suffered a statement on 8th September 2014, which is reproduced as under:-

“After the marriage, we cohabited together as husband and wife and out of this wedlock, no child was born. Due to basic temperamental differences we could not adjust with each other and despite our best efforts, we could not reconcile our differences. Now, at present, I am living separate from the other petitioner for the last more than one year i.e. Since July, 2013. There is no chance of our living together as husband and wife in future also. Now, we have mutually decided to dissolve our marriage by a decree of divorce.

We have amicably settled the matter in dispute. I have received back all the dowry articles and other belongings from the other petitioner. All the terms and conditions agreed upon between the parties are incorporated in the petition itself which I admit as correct and shall remain bound by the same. Our marriage be dissolved accordingly.”

A reading of the aforesaid statement would show that the “matter in dispute” stands amicably settled and she had received back all the dowry articles and other belongings from her husband-Karamjeet Singh, while further stating that she would be bound by the terms and conditions agreed upon between the parties. A reading of paragraph 4 as mentioned in the divorce petition reveals that the reasons for separating are none other than temperamental differences and the fact that they could not adjust with each other from the very beginning and were residing separately. Even the efforts of the Panchayat which had been convened for reconciliation did not have any effect and thereafter with the intervention of respectables and relatives a compromise was effected in which they had decided to dissolve the marriage by a divorce with mutual consent.

8. Even though learned State Counsel would contend that there is no compromise between the parties to drop the proceedings that had been initiated under the FIR, however, this argument would not be sustainable in view of the fact that the parties have resolved to set aside their differences and to dissolve their marriage by a decree of divorce with mutual consent. If in the opinion of the Court, if all the differences are to be set aside, the same would be applicable to proceedings that were initiated under the FIR, which came to be registered at the behest of the complaiant-respondent No.2 only on account of an unhappy marriage.

9. Even otherwise, reliance can be placed upon a judgement rendered in *Shlok Bhardwaj vs. Runika Bhardwaj, 2015(1) RCR CrI. 249* wherein it has been held that criminal proceedings filed by a wife before the

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divorce ought not to continue. The facts mentioned in the aforesaid judgment are similar to the facts of the instant case.

10. In view of the above, both the petitions stand allowed and all proceedings initiated under FIR No. 166 dated 26.04.2013 registered under Sections 406, 498-A of IPC at Police Station Zirakpur, District SAS Nagar are quashed.

March 06, 2020

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No