

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

Crl. Misc. M- 48365 of 2018 (O&M)
Date of Decision: 3.3.2020

Arun Yadav

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Jagmohan Ghuman, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

JAISHREE THAKUR, J.

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 22 dated 15.2.2016 registered under Sections 406, 498-A, 506 IPC at Police Station Gurugram, District Gurugram, 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 joint statement dated 6.9.2018. 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 quashed.

3. Learned counsel further contends that in terms of the settlement arrived at between the parties, the petitioner agreed to make an FDR of ₹51 lakhs in the name of his minor daughter Muskan and the respondent—

complainant had agreed that she would have no objection if the FIR so lodged by her is quashed. Today the petitioner has handed over a demand draft of ₹5 lakhs, a photocopy of which has been retained on the record. It is submitted that the petitioner has complied with the terms of the settlement, but the respondent—complainant is not coming forth to get the 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 joint statement recorded by the parties before the Family Court, Gurugram. Notice was issued, though power of attorney has been tendered on behalf of respondent No.2, but none has put in appearance on her behalf.

5. The question that would arise now is that whether the proceedings under the FIR ought to be quashed given the fact that the petitioner herein has already complied with his part of the terms and conditions as specified in the settlement agreement and taking into consideration the fact that no one has put in appearance on behalf of respondent No.2 before this Court.

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 benefited 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. 22 dated 15.2.2016 registered under Sections 406, 498-A, 506 IPC at Police Station

Gurugram, District Gurugram, and all subsequent proceedings arising out of the same as well as the proceedings under the FIR are quashed qua the petitioner.

3.3.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No