

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24065-2020(O&M)

Date of decision:24.08.2020

Harjinder Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Ranjeet Kumar Jaswal, Advocate for the petitioner

Mr. Amit Mehta, Sr. DAG, Punjab

ANIL KSHETARPAL, J. (ORAL)

The petitioner has filed the present petition under Section 482 Cr.P.C praying for quashing of FIR No.148 dated 9.11.2000 registered under Section 498-A, 406 IPC at Police Station Patti, District Tarn Taran.

Learned counsel for the petitioner contends that the FIR was result of a marital discord between Gurwinder Singh (petitioner's brother) and Lakhbir Kaur. He further submits that after the registration of the FIR, Gurwinder Singh and Lakhbir Kaur entered into a settlement and pursuant thereto, a joint petition was filed by them for dissolution of their marriage by a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 which was allowed on 1.10.2001. He further submits that the police submitted a cancellation report before the Court after a period of 19 years from the date of registration of FIR. The notice of the cancellation report was sent to respondent no.4 i.e, Lakhbir Kaur-first informant. She, pursuant to the notice, appeared before the

Court of Sub Divisional Judicial Magistrate, Patti and suffered a statement on 24.5.2019 to the effect that she does not have any objection if the cancellation report submitted by the police is accepted. The statement of the first informant is extracted as under:-

“Statement of Lakhbir Kaur daughter of Sewa Singh resident of ward no.4, Patti. Near ITI Sarhali Road, Patti, Tehsil Patti, District Tarn Taran, now resident of Village Gandiwind Dhatal, Tehsil and District Tarn Taran:-

I am complainant of the above said case, attested copy of my Aadhar card is Ex.P1. I agree with the cancellation report submitted by the police and I shall have no objection if the same is accepted.”

However, Sub Divisional Judicial Magistrate, Patti, instead of accepting the cancellation report, chose to pass the following order on 31.8.2019:-

“Heard on the cancellation report. Perusal of file revealed that complainant Lakhbir Kaur on 24.05.2019 and suffered statement that she agrees with the cancellation report submitted by the police and has no objection if the same is accepted. Present case was got on the statmenet of Lakhbir Kaur against accused Gurwinder Singh, Harinder Singh, Kulwinder Singh, Sharanjit Kaur, Paramjit Kaur, Parminder Kaur and Patwinder Kaur with the allegations that all the accused misappropriated the Ishri Dhan of the complainant and have also caused cruelty to the complainant on pretext of demand of

dowry. The police after investigation has preferred cancellation report on the strength that parties have entered into compromise. It is apposite to mention that the offence punishable under Section 498A of IPC is non-compoundable offence and therefore said offence cannot be compounded by the parties by way of compromise and this court has no power to grant permission to the parties to compound the offence, however, the parties are at liberty to avail appropriate remedy. To the mind of this Court matter in question needs further probe. Accordingly present cancellation report is not accepted and is returned to concerned SHO for further investigation as per law. Judicial papers be separated from the file and be consigned to Record Room and the papers be sent to concerned police station for further investigation, as as per law.”

Learned counsel for the petitioner contends that in fact Sub Divisional Judicial Magistrate, Patti has committed an error as there was no request for compounding of the offence under Section 498-A IPC. He contends that the police after investigation filed a cancellation report and the first informant made a statement that she has no objection thereto.

Keeping in view the aforesaid undisputed facts, this Court dispenses with the service of notice on respondent no.4.

Sh. Amit Mehta, Sr. DAG, Punjab accepts notice on behalf

of respondent No. 1 to 3.

Keeping in view the facts noted above, this Court is of the considered view that it would be in interest of justice, if the petition is allowed at this stage, on the very first date of hearing. The first informant has already made statement which has been extracted above. The petitioner has also filed a copy of the decree of divorce granted in the year 2001.

The petitioner herein is husband's sister. She is stated to be 67 years old, residing separately after marriage.

Keeping in view the aforesaid facts, FIR No.148 dated 9.11.2000 registered under Section 498-A, 406 IPC at Police Station Patti, District Tarn Taran is ordered to be quashed qua the petitioner. However, the first informant/victim would be at liberty to move an application for recall, if aggrieved.

The petition stands allowed.

24.08.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No