

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

CRM-M-49101 of 2019.

Decided on:- February 05, 2020.

Gagandeep Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

HARI PAL VERMA, J. (Oral)

This is the second petition filed by the petitioner under Section 482 Cr.P.C. for quashing of FIR No.15 dated 25.06.2017 under Sections 406 and 498-A IPC registered at Police Station NRI, District Ludhiana (Annexure P-1) along with all subsequent proceedings arising therefrom.

The earlier petition filed by the petitioner i.e. ***CRM-M-17692 of 2018*** titled as ***Gagandeep Singh Versus State of Punjab and another*** for quashing of the aforesaid FIR on the basis of compromise was dismissed as withdrawn, however, with liberty to the petitioner to file a fresh petition for quashing of the FIR on merits, as the respondent No.2-complainant did not come forward to honour the compromise.

Briefly stated, the aforesaid FIR was registered at the behest of respondent No.2 whose marriage was solemnised with the petitioner on

15.07.2013. After marriage, they lived together as husband and wife, but no child was born to them. Respondent No.2 made allegations that the petitioner in connivance with his family members started harassing her on account of demand of dowry. Though before the marriage, the in-laws of respondent No.2 informed her that the petitioner is permanent resident of Australia, but when she had joined the petitioner in Australia, she came to know that the petitioner is living there on refugee visa. In this manner, the petitioner and his family members had deceived her.

Learned counsel for the petitioner has argued that a compromise dated 13.11.2017 (Annexure P-2) was entered between the petitioner and respondent No.2. On the basis of said compromise, a petition under Section 13-B of the Hindu Marriage Act, 1955 seeking divorce by way of mutual consent was filed by them and there was a clear recital in the said compromise that the FIR in question was registered at the behest of respondent No.2 against the petitioner and the trial is pending in the Court of Judicial Magistrate, Ludhiana. The respondent No.2-complainant shall have no objection in case the FIR is quashed against the petitioner by this Court. The respondent No.2 had further undertaken to suffer her statement before this Court as well as the trial Court and the police authority as regard the compromise and to submit that she has no objection in case the FIR is quashed.

He has further argued that in terms of the settlement so arrived between the petitioner and respondent No.2, a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 has already been granted by learned Additional District Judge, Ludhiana vide judgment and decree dated

14.09.2018 (Annexure P-3). He has referred to paragraph No.5 of the said judgment to contend that the respondent No.2-complainant has suffered a statement having received total settled amount of Rs.15 lakh in lieu of her past, present and future maintenance/permanent alimony including dowry articles and Istridhan in terms of compromise so entered between the parties. She had further undertaken to render necessary assistance to the petitioner in getting the FIR in question quashed by making statement in the Court.

He has further contended that since the respondent No.2-complainant did not honour the compromise, the petitioner was constrained to withdraw the earlier petition seeking quashing of the FIR in question on the basis of compromise and to file the present petition for quashing of the FIR on merits.

On November 20, 2019, this Court, while issuing notice of motion in the case, had passed the following order:

“Learned counsel for the petitioner states that in FIR No.15 dated 25.06.2017 under Sections 406, 498-A IPC, registered at Police Station NRI, District Ludhiana, the matter has been compromised between the parties and as a result thereof, the petitioner has paid a sum of Rs.15 lakh to respondent No.2-wife and on the basis of this payment, even the decree of divorce under Section 13-B of the Hindu Marriage Act has been granted. But now respondent No.2 is not coming forward to get the present FIR quashed, despite the fact that the matter has been compromised between the parties.

Notice of motion for 05.02.2020.

The complainant-respondent No.2 is directed to remain present in the Court on the next date of hearing.

Meanwhile, proceedings qua the present FIR shall remain stayed.”

The office report suggests that the respondent No.2 has been served in the case, but despite that, neither the respondent No.2 nor anybody has put in appearance on her behalf, though a clear direction was issued to her to remain present in Court.

Having heard learned counsel for the parties, this Court finds that since the respondent No.2-complainant has not opted to come present in this Court and to clear her stand in the case, the averments made by the petitioner goes un rebutted. From the contents of the compromise dated 13.11.2017 (Annexure P-2) and the judgment and decree dated 14.09.2018 (Annexure P-3) passed by learned Additional District Judge, Ludhiana, it is fully established that the matter has been compromised between the petitioner and respondent No.2 and she has given an undertaking to depose in the case in support of compromise enabling the petitioner to get the FIR quashed on the basis of compromise, but now, after receiving the money, she has retracted, and not cooperating with the present proceedings.

In the case of ***Ram Lal and others Versus State of Haryana and another 2008(2) RCR (Criminal) 823***, it was held by this Court that when the parties have entered into a compromise, but the complainant has backed out from the same, the FIR is liable to be quashed in such like situation. The relevant paragraph of the said judgment reads as under:

“4. Learned counsel for the petitioners by placing reliance upon the judgment of Hon'ble Supreme Court in the case of Mohd. Shamim v. Smt. Nahid Begum, 2005 (1) RCR (criminal) 697: 2005(1) Apex Criminal 299 (SC) contends that in view of

the compromise having been entered into between the parties and amount having been received by the complainant, the continuation of proceedings is nothing but misuse of the process of the Court. The Hon'ble Supreme Court has been pleased to observe as under:

14. *This Court in **Ruchi Agarwal vs. Amit Kumar Agrawal & Ors. [2004 (8) Supreme 525]**, in almost a similar situation has quashed a criminal proceeding against the husband, stating : "....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.*

8. *In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue...."*

Therefore, taking into consideration the judgment passed by this Court in **Ram Lal and others' case (supra)**, the respondent No.2-complainant cannot be permitted to back out from the compromise dated 13.11.2017 (Annexure P-2) and also from her statement made before learned Additional District Judge, Ludhiana in the petition under Section 13-B of the Hindu Marriage Act, 1955 particularly when she has received the settled amount of Rs.15 lakh in lieu of her past, present and future maintenance/permanent alimony including dowry articles and Istridhan in terms of compromise so entered between the parties and has made a specific statement that she has no

objection in case the FIR in question is quashed. The backing out of respondent No.2-complainant from the compromise shows nothing but her greed.

Accordingly, the present petition is allowed and FIR No.15 dated 25.06.2017 under Sections 406 and 498-A IPC registered at Police Station NRI, District Ludhiana (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua petitioner-accused Gagandeep Singh only.

Before parting with this order, it is directed that the respondent No.2-complainant shall pay a sum of Rs.25,000/- as costs to the petitioner for compelling him to file repeated petitions, within a period of one month from today. In case the respondent No.2 fails to make the said payment to the petitioner within one month, bailable warrants be issued against her for 30.03.2020.

February 05, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No