

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

CRM-M No.22760 of 2019 (O&M)

Date of Decision.16.09.2021

(Heard through VC)

Mohit Sharma and others

...Petitioners

Vs

State of Haryana and another

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kuljeet Singh Bal, Advocate
for the petitioners.

Ms. Mahima Yashpal, DAG, Haryana.

None for respondent No.2.

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JAISHREE THAKUR J. (ORAL)

CRM No.29330 of 2021

Prayer in the application is for preponement of the hearing of the main petition, which is fixed for 24.01.2022.

For the reasons stated in the application, the same is allowed and hearing of the main petition is taken up for hearing today itself.

CRM No.20846 of 2019

Application is allowed.

Annexure P-3 (colly) is taken on record.

CRM-M No.22760 of 2019

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.672 dated 22.07.2017 registered under Sections 498-A, 406, 506 IPC at Police Station City Thanesar, District Kurukshetra and all subsequent proceedings arising therefrom on the ground that the matter was compromised between the parties and a petition filed under Section 13-B of the Hindu Marriage

Act for dissolution of marriage by decree of divorce has been allowed and the complainant has received the entire amount as per compromise.

2. In brief, the facts are that marriage was solemnized between petitioner No.1 and the respondent No.2 complainant but on account of matrimonial differences, an FIR under Sections 498-A, 406, 506 IPC came to be registered at Kurukshetra. The complainant also preferred a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The matter was ultimately settled between the parties and it was decided that they would part ways by way of decree of divorce and the petitioner No.1 herein would pay a sum of Rs.4,20,000/- as permanent alimony, maintenance and all other claims past and present to the complainant through Special Power of Attorney holder Ashok Kumar. Pursuant to the compromise, the complainant, who had filed a petition under Section 12 of the Protection of Women from Domestic Violence Act withdrew the same by order dated 12.09.2018. On the statements recorded before the Additional District Judge, Kurukshetra, a decree of divorce was allowed under Section 13-B of the Hindu Marriage Act. The petitioners herein claim that one of the terms of the settlement was that the present FIR would be quashed, however, the complainant is not coming forth to have her statement recorded in terms of the compromise and giving her no objection thereto. It is argued that the complainant is harassing the petitioners herein, despite having taken the entire alimony and since all matrimonial disputes have been amicably settled, the instant FIR deserves to be quashed.

3. Notice of motion was issued in the said crl. misc. petition, however, despite service, no one has put in appearance on behalf of the complainant.

4. I have heard learned counsel for the parties and have also perused pleadings of the case as well as the case laws cited. Admittedly, the instant crl. misc. petition came to be filed as far back as 14.05.2019 and the notice of motion was issued on 17.09.2019. The matter has remained pending in this Court for a

considerable length of time, despite the fact that divorce has already been allowed to petitioner No.1 and respondent No.2.

5. As per of the office report, service of respondent No.2 is complete. The petitioners herein are praying for quashing of the FIR on the plea that all disputes stand settled and that the complainant has received the amount of Rs.4,20,000/- towards full and final settlement in divorce proceedings under Section 13-B of the Hindu Marriage Act. A reading of the statement recorded before the Additional District Judge, Kurukshetra at the time when the petition for dissolution of marriage by a decree of divorce under Section 13-B of the Hindu Marriage Act was filed, it had been agreed by the parties to the marriage that they would be bound to withdraw complaint, if any, pending before any forum or court, as they had decided to dissolve marriage. The first motion statement was recorded on 30.05.2018 and the second motion statement was recorded on 04.12.2018, which was also similar. Petitioner No.1 has complied with his part of compromise by handing over an amount of Rs.4,20,000/- to the special power attorney holder of the complainant and the complainant has also withdrawn the petition filed under the Protection of Women from Domestic Violence Act, however, she is not coming forth to make a statement that she would have no objection to the FIR being quashed.

6. Despite notice issued by this Court, she has failed to put in appearance, which conduct would compel this Court to conclude that the petitioner-husband and his family members are being harassed. There is catena of judgments available, which have laid down the principle that the wife cannot be permitted to back out of a compromise/situation or statement given after availing benefits therein. In a judgment rendered in ***Krishan Singh and others Vs. State of Punjab and another*** in CRM-M No.4543 of 2017 decided on 10.02.2020, this Court has held as under:-

“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 CrI. 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.”

7. Keeping in view the fact that the respondent No.2-wife is not coming forth 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 instant FIR deserve to be quashed.

8. Consequently, the instant petition stands allowed and the FIR No. 672 dated 22.07.2017 registered under Sections 498-A, 406, 506 IPC at Police Station City Thanesar, District Kurukshetra and all subsequent proceedings arising therefrom are quashed qua petitioners.

(JAISHREE THAKUR)
JUDGE

September 16, 2021
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No