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

CRR(F)-489-2021

Date of decision : 03.12.2021

Gunvi (minor) through legal guardian and next friend (mother) Smt.
Archana Bhatia

...Petitioner

Versus

Sandeep Bhatia

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Sunita Nambiar, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision is to the impugned order dated 14.09.2021, vide which the Additional Principal Judge, Family Court, Ludhiana (for short “the Family Court”), had dismissed the petition filed by the petitioner under Section 125 of Cr.P.C. for grant of maintenance, at the rate of Rs.20,000/- per month.

A perusal of the impugned order would show that it had been noticed that the petition had been filed by the minor through her natural guardian and next friend i.e.Smt. Archana Bhatia, who is the wife of the respondent-Sandeep Bhatia. The petitioner is stated to be born on 29.07.2007. The marriage between Archana Bhatia and Sandeep Bhatia-respondent had taken place on 29.08.2006 and compromise is stated to have

been effected on 21.09.2010 and a decree of divorce was passed thereafter, on 29.03.2011. The Family Court, had dismissed the petition filed under Section 125 of Cr.P.C. after taking into consideration the entire record and evidence. Para 4 of the divorce petition filed under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter to be referred as “the Act of 1955”) was reproduced in para 23 of the impugned order and as per the same, it was noticed that it was mutually settled between Archana Bhatia and the respondent-Sandeep Bhatia that an amount of Rs.6,50,000/- would be paid by the respondent to Archana Bhatia, by way of permanent alimony, maintenance (past, present and future), dowry articles, stridhan, jewelery etc. and it was further specifically stated that it had also been settled between the parties that the aforesaid amount of Rs.6,50,000/- would include the past, present and future maintenance of child i.e. Gunvi-petitioner. It was observed that the averments in the divorce petition were unambiguous and that the statement of Archana Bhatia recorded in petition under Section 13-B of the Act of 1955 revealed that she had specifically stated that she would remain bound by the terms and conditions as enshrined in the said petition and the statement of the said Archana Bhatia was recorded on two occasions and on each of the said occasions, Archana Bhatia had stated that she would remain bound by the pleadings i.e. the pleadings specifically pertaining to the settlement on behalf of herself i.e. Archana Bhatia and also on behalf of her daughter-Gunvi. It was also observed therein that the statement of Archana Bhatia recorded on 29.09.2010 also revealed that she had undertaken to remain bound by the terms and conditions as enshrined in the mutual divorce petition. The

Family Court had relied upon various judgments in this regard and observed that the Court could not allow any person to commit the breach of undertaking given to the Court and held that the persons would be bound by their pleadings. It was also observed that in the matter in hand, an application for interim maintenance had already been dismissed by the same Presiding Officer, who had decided the mutual divorce petition between the parties and it had been specifically observed by the said Court that a false claim had been raised therein. In order dated 13.02.2019 passed by the said Court, in para 7 of the order, it was clearly mentioned that in para 4 of the mutual divorce petition, the said Archana Bhatia had received an amount of Rs.6,50,000/- on account of full and final settlement on her own behalf as well as on behalf of her minor child namely Gunvi. Further, reference had also been made to the Panchayati Rajinama (Ex.R1) which also revealed that it had been clearly mentioned therein that the minor child Gunvi would remain with Archana Bhatia for remaining part of her life and it would be only Archana Bhatia, who would be responsible for the upbringing, education and marriage of Gunvi. To the similar effect, reference had also been made to affidavit of Archana Bhatia (Ex.R2), another Panchayati Rajinama (Ex.R3) and another affidavit of Archana Bhatia (Ex.R4). Even evidence of PW1 Gaurav Katyal, who is the brother of Archana Bhatia, was considered and from his cross-examination, it was noticed that it was categorically admitted by him that Archana (his sister) was taking the amount of Rs.3,25,000/- on behalf of minor Gunvi for her past, present and future maintenance and would not claim anything from Sandeep Bhatia or his parents and even the aspect with respect to compromise and future

expenses to be borne by Archana Bhatia, with respect to minor, was also stated by him to have been admitted by his sister. It was further submitted by him that the compromise was genuine and contained the signatures of Archana Bhatia. It was noticed in the said order that the petitioner had produced only two witnesses and the second witness PW2 had not even offered himself for cross-examination and in fact, Archana Bhatia, who was the key witness, had herself not stepped into the witness-box and thus, adverse inference had been drawn against her.

On the other hand, it was noticed that RW1-Sandeep Bhatia had categorically deposed that he had paid an amount of Rs.6,50,000/- for the maintenance of Gunvi and Archana Bhatia and although, he was cross-examined at length but nothing came out of the same to support the case of the applicant-Gunvi. Further, the evidence of said RW1 to the effect that after the decree of divorce had been passed, the said Sandeep Bhatia had re-married and had school going children and also had the responsibility of his old widow-mother, wife and children upon himself and with great difficulty, he had arranged Rs.6,50,000/-, after having taken a loan from his friends and relatives and that he was only doing a private job and no other business and was earning Rs.15,000/- per month, was taken into consideration. After considering the evidence and the documents on record, the Family Court had rejected the argument of the learned counsel for the petitioner to the effect that in the judgment and decree passed on 29.03.2011, there was no mention with respect to the details of the payment of the amount of Rs.6,50,000/- and held that the same would not make a difference, as the entire pleadings and evidence clearly showed that the said

amount was received on account of full and final settlement by Archana Bhatia on behalf of herself and her minor child. Accordingly, petition under Section 125 of Cr.P.C. was dismissed.

Learned counsel for the petitioner has submitted that although, in the judgment and decree dated 29.03.2011, there is a mention that Archana Bhatia had received Rs.6,50,000/- but there is no mention that the same was also on account of future expenses to be incurred towards the upbringing, education etc. of the minor child. It is also argued that the cost of living has increased and thus, the amount of Rs.6,50,000/- is not enough for securing the future of both Archana Bhatia and the minor child.

This Court has heard the arguments of learned counsel for the petitioner and has gone through the record.

It is not in dispute that the divorce petition under Section 13-B of the Act of 1955 was filed by Archana Bhatia and Sandeep Bhatia for divorce by mutual consent, on the basis of which, the judgment and decree of divorce dated 29.03.2011 was passed. Relevant portion of para 4 of the said divorce petition filed under Section 13-B of the Act of 1955, which was also reproduced in para 23 of the impugned order, is reproduced hereinbelow:-

“It is mutually settled between to this petition that petitioner no.2 Sandeep Bhatia shall pay a sum of Rs.6,50,000/- by way of permanent alimony, maintenance (past, present and future), dowry articles, stridhan, jewelery etc.”

“It is further mutually settled between the parties to this petition that the aforesaid amount of Rs.6,50,000/- (Rs.Six lacs fifty thousand), which include the past, present and future maintenance of the child i.e. Gunvi.””

A perusal of the said averments would show that it had been specifically stated that an amount of Rs.6,50,000/- was being paid by Sandeep Bhatia to Archana Bhatia as a full and final settlement and the said amount would also include the past, present and future maintenance of the child i.e.Gunvi. The facts that the statement of Archana Bhatia was recorded in the said petition under Section 13-B of the Act of 1955, on two occasions, as well as the affidavit had been submitted by Archana Bhatia and the fact that in both the statements, as well as in the affidavit, said Archana Bhatia had specifically stated that she would remain bound by the pleadings, have not been disputed before this Court. It has also not been disputed that the application for interim maintenance was also dismissed by the Presiding Officer of the same Court which had decided the mutual divorce petition, after observing that the claim made by the petitioner was false and in the said order dated 13.02.2019, averments made in the petition filed under Section 13-B of Act of 1955, were specifically noticed. Even, the documents, i.e. Panchayati Rajinama (Ex.R1), affidavit (Ex.R2), second Panchayati Rajinama (Ex.R3) and second affidavit (Ex.R4), have not been disputed before this Court, which were all to the effect that it was Archana Bhatia, who would be solely responsible for the upbringing of minor child Gunvi. Further, the fact that PW1 had admitted in his cross-examination that his sister Archana had received Rs.3,25,000/- on behalf of Gunvi for her past, present and future maintenance and that she would not claim anything from Sandeep Bhatia and her parents and the admission of the factum of the compromise by the said witness and the said evidence, as noticed by the Family Court, has also not been disputed by the learned

counsel for the petitioner before this Court. PW2 had not come forward for cross-examination, thus, evidence of PW2 could not be read. Archana Bhatia had herself not appeared in the witness-box and thus, the Court below has rightly drawn adverse inference against Archana Bhatia. On the other hand, RW1-Sandeep Bhatia had fully supported the case of the respondent and had submitted that the amount of Rs.6,50,000/- was for the maintenance of both, Archana Bhatia and Gunvi. As per the stand of respondent-Sandeep Bhatia, he had performed second marriage after being granted a divorce, out of which he has two children to look after and he also has an old widowed mother to take care of and he had also stated that he had raised the amount of Rs.6,50,000/- after borrowing the same from his friends and relatives and he was only doing a private job and earning Rs.15,000/-. None of the said factors have been disputed before this Court. The Delhi High Court in case titled **V.-Petitioner Vs. S.-Respondent**, reported as **2019(256) DLT 297**, has held as under:-

“20.The respondent has raised false claims before this Court. In the notices dated 04th October, 2014 and 20th October, 2014, the respondent claimed that the petitioner had agreed to share the maintenance of the child whereas a contrary plea has been raised by the respondent in reply to CM No.15068/2015 that there was no settlement between the parties with respect to the maintenance of the child. Both these contentions appears to be false as the parties settled all their disputes relating to the maintenance and custody of the minor child as recorded in the joint statement of both the parties and the orders of the Family Court. The respondent has abused the process of law by raising false claims and has thereby interfered with the administration of justice.

This case warrants strict action to be taken. It is fit case to initiate proceedings for Contempt of Court.

21. The respondent is a dishonest litigant who has no respect for truth and has raised false claims before this Court without any hesitation. The averments made by the respondent in the maintenance petition under Section 125 Cr.P.C. filed by the respondent clearly show that the respondent is using his minor son as a pawn to somehow take back the settlement amount of Rs.25,00,000/- from the petitioner and teach her a lesson. Reference be made to para 4 of the maintenance application (Annexure A-9 at page 278) in which the respondent has re-opened all the allegations of harassment by the petitioner to the respondent which were put to an end by decree of divorce by mutual consent.

22. During the course of the hearing dated 01st March, 2016, this Court made these prima facie observations whereupon the respondent voluntarily gave undertaking to withdraw the maintenance petition on 02nd March, 2016. The undertaking of the respondent to withdraw the maintenance petition was a voluntary and the contrary allegations of the respondent are contemptuous.

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24. There is no merit in the averments made by the respondent in the petition. The respondent has raised false claims before this Court and is liable for its consequences. However, this Court is of the view that it would be in the interest of justice to recall the order dated 02nd March, 2016 insofar as this Court had disposed of the contempt petition and to revive the contempt petition to adjudicate it on merits after considering the contentions of both the parties.

Conclusion

25. In the facts and circumstances of this case, the order dated 02nd March, 2016 is recalled in so far as this Court had disposed of the contempt petition and CM No.15608/2015. The contempt petition and the CM No.15608/2015 are revived. The interim order dated 17th August, 2015 is also revived. CONT.CAS(C) 321/2015 shall be decided on the merits after hearing the parties and considering all their contentions.”

A perusal of the above judgment would show that in a case, where the statements had been recorded and the matter had attained finality by grant of mutual divorce and thereafter, in a petition filed under Section 125 of Cr.P.C., averments which were contrary to the joint statement had been made, it was observed that action should be taken against the said person who had made the said false averments, which were contrary to the joint statement therein, on the ground that by raising false claims, the said person had abused the process of law.

Similarly, in case **Tarlochan Singh Vs. Smt. Avtar Kaur**, reported as **1995(3) RCR (Criminal), 264**, a Coordinate Bench of this Court had observed that statements made in the Court amount to an undertaking and thus, on violating the same, contempt proceedings should be initiated. The Hon'ble Supreme Court in **Ranbir Singh Vs. Executive Engineer** reported as **2011(15) SCC 453** had observed that the parties are to be made bound by their pleadings.

In the present case, considering the entire facts, the evidence and the documents on record, it is clear that the entire matter had been settled between the petitioner, her mother Archana Bhatia through whom the present petition has been filed and the respondent-Sandeep Bhatia. The

petition filed under Section 125 of Cr.P.C. is nothing but an attempt to reopen the matter which had already been settled. The fact that in the decree passed on 29.03.2011, it had not been specifically stated as to on what all counts, the amount of Rs.6,50,000/- was being paid, would not further the case of the petitioner inasmuch in paras 3 and 4 of the said order, it had been observed that the statements were recorded in support of the averments made in the joint petition, and even in the second round of statements, earlier stand taken in the joint petition was reiterated. Thus, on reading the judgment and decree as a whole, wherein a reference has been made to the statements as well as averments made in the joint petition, which undisputedly establish the fact that the said amount has been paid for the maintenance etc. of the minor also, in fact, shows that even the said judgment and decree does not support the plea raised by the learned counsel for the petitioner. Judicial Proceedings are sacrosanct. After the matter is compromised and affidavits/documents, in support of the compromise, are submitted before the Court, it would not lie in the mouth of any of the parties to backtrack from the same, moreso, after having taken the benefit of the said compromise. The Hon'ble Supreme Court of India in case titled as **Ruchi Aggarwal Vs. Amit Kumar Aggarwal**, reported as **2005(3) SCC 269**, had held that where a person, who is party to a compromise, has received benefit under the said compromise, he cannot be permitted to backtrack from the same and cannot be permitted to pursue proceedings in violation of the terms of the said compromise and thus, in the said case, the criminal proceedings which were being pursued, in violation of the said compromise, were ordered to be quashed. The relevant portion of the said

judgment is reproduced hereinbelow:-

“5. From the above narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also undertook to withdraw all proceedings civil and criminal filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under [Sections 498A, 323 and 506 IPC](#) and under [Sections 3 and 4](#) of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent-husband agreed to withdraw his petition filed under [Section 9](#) of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

6. It is based on the said compromise the appellant obtained a divorce as desired by her under [Section 13\(B\)](#) of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under [Section 125](#) of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

7. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties,

we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under [Section 125](#). It is true that she had made a complaint in writing to the Family Court where [Section 125 Cr.P.C.](#) proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. 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, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt.Rampur) filed under [Sections 498A, 323 and 506 IPC](#) and under [Sections 3 and 4](#) of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.”*

The present petition, although stated to be filed by the minor, but has been filed through Archana Bhatia. In case, the said petition is entertained, then it would lead to a situation where no judicial proceedings would attain finality, inasmuch as even after having finally compromised the matter and having gained benefit out of it, the parties to the compromise would file one application or the other, in order to extract more money from the other party. Although, this Court holds that filing of the present petition under Section 125 of Cr.P.C. is absolutely misconceived, but this Court does not wish to impose any costs or proceed against the said Archana Bhatia inasmuch as she is responsible for taking care of the minor child.

Finding no merit in the present Criminal Revision, the same is dismissed.

03.12.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**