

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

201-A

CRM-M-5222-2019

Date of Decision: 01.09.2023

Onkar Chand

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE NIDHI GUPTA

Present: Mr. Narinder S. Lucky, Advocate, for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

NIDHI GUPTA, J. (Oral)

1. The prayer in the present petition is for quashing of FIR No.345, dated 26.09.2017 (Annexure P-1) under Sections 406, 498A and 506 IPC, registered at Police Station Phillaur, District Jalandhar (Rural), by the complainant-respondent No.2 herein, who is the wife of the petitioner herein, on the basis of compromise/terms settled in the divorce petition filed under Section 13-B of the Hindu Marriage Act, 1955.

2. Learned counsel for the petitioner *inter alia* submits that the marriage between the parties was dissolved by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955 by way of decree of divorce granted vide order dated 04.05.2019 (Annexure P-3).

3. Learned counsel submits that on the very same day, i.e. 04.05.2019 itself, respondent No.2 had recorded a separate statement before the learned District Judge (Family Court), Saheed Bhagat Singh Nagar, wherein she had stated as follows:-

“I tender in evidence my affidavit EX.PW1/A in support of averments of petition. My photograph along with petitioner No.2,

affixed on main petition is Ex.P-1. I have already received Rs.75,000/- from petitioner No.2 at the time of recording of first motion statements. Today I have received Rs.74,000/- vide demand draft bearing No.143805 and Rs.1000/- in cash from petitioner No.2. Copy of demand draft is Mark A. After receipt of total amount of Rs.1,50,000/-, now, I am not entitled to recover any amount for myself or for minor daughter from petitioner No.2. There was no cohabitation with petitioner No.2 after recording first motion statements. I shall appear before learned Court for recording my statement regarding compromise with petitioner No.2 for the purpose of quashing of FIR registered at Police Station Phillaur against petitioner No.2. It has also been settled between us that minor daughter will remain in my custody. Ex.P2 is photo copy of my aadhaar Card. My marriage with petitioner No.2 may kindly be dissolved by decree of divorce by mutual consent.”

Learned counsel submits that thereafter, vide order dated 03.04.2019, the parties were directed by this Court to appear before the concerned Illaqa Magistrate to record their statements in respect of quashing of the FIR. However, respondent No.2 failed to appear before the Illaqa Magistrate pursuant to the said order. Thereafter, the parties were again directed vide order dated 12.02.2020 passed by a coordinate Bench of this Court to appear before Illaqa Magistrate to get recorded their statements.

Pursuant to the order dated 12.02.2020 passed by a coordinate Bench of this Court, the parties appeared before the learned Sub-Divisional Judicial Magistrate, Phillaur on 12.03.2020. Learned Magistrate, has submitted his report along with copies of the statements of the parties vide letter dated 04.04.2020 duly forwarded by the learned District and Sessions Judge, Jalandhar.

A perusal of the above said report would show that the petitioner and respondent No.2 have appeared and suffered statements with

respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

However, a perusal of the order sheets reveals that respondent No.2 failed to appear before this Court. Thereafter, Office report reveals that respondent No.2 remained unserved on a number of occasions for want of her correct/current address. However, in March 2021, notice was served to counsel for respondent No.2, despite that respondent No.2 remained unrepresented.

Learned counsel for the petitioner further submits that in the meanwhile, respondent No.2 has remarried, and the petitioner is also stated to have remarried.

Learned counsel for the petitioner relies upon judgment of the Supreme Court in case **Ruchi Agarwal Vs. Amit Kumar Agrawal and others, 2004 (4) RCR (Crl.) 949 (SC)** and a judgment of Delhi High Court in **Sh. Chatter Pal and others Vs. State and another (2023:DHC:3396, decided on 16.05.2023)** and a judgment of coordinate Bench of this Court in **Ram Lal and others Vs. State of Haryana and another**, to submit that it has been held that in such circumstances where the complainant even after compromise does not comply with the undertaking to withdraw the case, the FIR is liable to be quashed.

Learned State counsel does not dispute the aforesaid factual and legal position.

In view of what has been discussed hereinabove, this petition is allowed and FIR No.345, dated 26.09.2017 (Annexure P-1) under Sections 406, 498A and 506 IPC, registered at Police Station Phillaur, District Jalandhar (Rural), along with all other consequential proceedings arising

therefrom on the basis of compromise, are ordered to be quashed qua the petitioner.

Petition stands disposed of.

Pending application(s) if any also stand(s) disposed of.

September 01, 2023
vcgarg

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No