

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

203

CRM-M No. 6974 of 2019 (O & M)
Date of Decision : 13.2.2023

Neeraj

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Navmohit Singh, Advocate, for the petitioner
Ms. Mahima Yashpal, DAG, Haryana
Dr. J.R. Rana, Advocate, for respondent no. 2/complainant

TRIBHUVAN DAHIYA J. (ORAL):

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.386 dated 3.10.2017 under Sections 498-A, 323, 342, 506, 34 and 406 IPC registered at Police Station Civil Lines, District Sonapat (Annexure P-4), and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner has submitted that marriage between the parties (petitioner and respondent no.2/complainant) was solemnized on 6.2.2016 and no child was born out of the wedlock. Due to temperament differences, the parties separated on 17.10.2016. A compromise was effected between them and based on that, petition for divorce by mutual consent was filed under Section 13-B of the Hindu Marriage Act, 1955. The settlement amount of Rs.23 lakhs was duly paid by the petitioner to the complainant in terms of the compromise, and divorce was granted vide judgment and decree dated 5.7.2018 (Annexure P-5).

3. One of the conditions of settlement, as recorded in the divorce petition filed by the parties was, that both the parties will withdraw all their

civil and criminal cases/complaints filed against each other or their relatives, in any Court of law or police station or office anywhere in India. Based on the said condition, the instant petition for quashing of the FIR lodged by the complainant against the petitioner has been filed. Notice of motion was issued to the respondents on 14.2.2019. The complainant/respondent no.2 appeared before the Court on 27.1.2020 and accepted a sum of Rs.20,000/- awarded towards litigation expenses. She also undertook to withdraw all criminal cases against the petitioner before the trial Court on the basis of settlement arrived at between them. The order dated 27.1.2020 reads as under:

Mr. Janak Raj Rana, Advocate has put in an appearance on behalf of respondent no.2 and filed his power of attorney, which is taken on record.

Learned counsel for the petitioner has handed over a sum of Rs.20,000/- towards litigation expenses to the complainant, who is present in Court. She submits that she will withdraw all the criminal cases against the petitioner within a week before the trial Court on the basis of the settlement arrived at between the parties.

Adjourned to 29.4.2020.

Thereafter, she did not appear, nor gave any instruction to her counsel for appearance.

4. In such a situation, notice was again issued to the complainant vide order dated 8.8.2022. As per report of service, her brother told the process server that his sister/complainant has gone to Canada. In this situation, this Court has no option but to proceed with the matter.

5. Learned counsel for the parties have been heard and record perused.

6. There is no denial to averments of the petition by the complainant,

nor has she appeared before the Court after initial appearance. It is also not disputed by learned counsel for the appearing parties that a complaint filed by her under the Protection of Women from Domestic Violence Act, 2005, before a Sonapat Court stands withdrawn in terms of the settlement. But she is not coming forward to withdraw/settle the instant criminal case.

7. As apparent on record, pursuant to the settlement arrived at between the parties, total settlement amount of Rs. 23 lakhs, in lieu of present and future maintenance/permanent alimony, has been received by the complainant. Based on the settlement, a decree of divorce by mutual consent has also been granted. The petitioner also consented to grant of this divorce. The complainant, on her part, was required to withdraw all pending cases against the petitioner/his family members. In partial compliance of the terms of settlement, she withdrew the case filed under the Protection of Women from Domestic Violence Act, 2005, but has failed to cooperate in quashing of the instant FIR without any reason or explanation. Not only that, she has stopped appearing before this Court and has failed to instruct her counsel also, in the matter. This conduct of hers is deprecated. After having received the total settlement amount and having been granted the decree of divorce, the complainant cannot be allowed to hold the petitioner to ransom by refusing to give consent to quashing of the criminal proceedings in question, initiated at her instance. Undisputedly, she has agreed to withdraw/get quashed these criminal proceedings as per terms of the compromise, and shall remain bound to do so.

8. In view of the aforesaid facts and circumstances, continuation of criminal proceedings against the petitioner will be an abuse of the process of law, and cannot be permitted. Therefore, the petition is allowed. FIR No.386

dated 3.10.2017 under Section 498-A, 323, 342, 506, 34 and 406 IPC registered at Police Station Civil Lines, District Sonapat (Annexure P-4), and all subsequent proceedings arising therefrom, are hereby quashed *qua* the petitioner.

9. Pending miscellaneous application(s), if any, stands disposed of accordingly.

(TRIBHUVAN DAHIYA)
JUDGE

13.2.2023
Ashwani

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