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In the High Court of Punjab and Haryana at Chandigarh

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2023 : PHHC : 073153

CRM-M-19626 of 2023

Date of Decision: 19.05.2023

Rajwinder Singh

---Petitioner

versus

State of Punjab and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Naveen Bawa, Advocate
 for the petitioner

Ms Guramrit Kaur, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.20 dated 26.02.2016 registered at Police Station Bhikhiwind, District Tarn Taran, under Section 498-A of IPC and all consequential proceedings arising therefrom.

2. The brief facts of the case are that petitioner solemnised marriage with respondent No. 2 on 16.11.2013 according to sikh rites and ceremonies. One child was born from this wedlock. The couple on account of temperamental issues, could not pull on their marriage and respondent No. 2 left company of the petitioner. The respondent No. 2 lodged aforesaid FIR against the petitioner. The police after completing investigation filed challan and during pendency of trial

arising out of aforesaid FIR, parties amicably settled their grievances. The petitioner and respondent No. 2 filed petition under Section 13-B of Hindu Marriage Act, 1955 seeking divorce by mutual consent before Family Court. The divorce petition came up for consideration before Principal Judge, Family Court, Camp Court Patti, who vide order dated 17.11.2022 ordered to dissolve the marriage of the parties. Respondent No. 2 at the time of second motion appeared before Family Court and made a statement disclosing that she has settled all grievances with petitioner and she would appear before competent Court/authority regarding quashing of FIR registered under Section 498-A IPC. The decree of divorce came to be passed, however, respondent No. 2 is not ready to get FIR quashed.

3. Learned counsel for the petitioner inter alia contends that the petitioner solemnised marriage with respondent No.2 on 16.11.2013 according to Sikh rites and ceremonies. On account of temperamental issues, the couple could not pull on their marriage and they decided to part their ways. The petitioner and respondent No.2 filed a petition under Section 13-B of Hindu Marriage Act seeking divorce by mutual consent. The Principal Judge, Family Court after recording joint statement vide decree dated 17.11.2022 dissolved the marriage of petitioner with respondent No.2. In terms of compromise arrived at between the parties, the respondent No.2 was supposed to come forward and make a statement for getting impugned FIR quashed, however, respondent No.2 after getting divorce by mutual consent is not coming forward.

4. Learned State counsel does not dispute the aforesaid

factual position and submits that trial is still pending against the petitioner.

5. Despite service, there is no representation of respondent No. 2. It appears that respondent No. 2 after getting decree of divorce has either lost her interest to pursue the matter or she has resiled from her words.

6. The relevant extracts of decree of divorce read as:-

“In the second motion, their statements were again recorded on 16.11.2022, wherein they have reiterated their pleas and have prayed for grant of divorce through mutual consent. As per the statements and settlement as agreed upon between them, they have settled their all the claims between them regarding dowry articles, gold ornaments and past, present and future maintenance etc. and nothing is due between them. Further petitioner no.1 also undertook that she is bound to get record her statement before the competent authority/court regarding the quashing of FIR No.20/2016 get registered by her at Police Station Bhikhiwind under Section 498-A IPC registered against petitioner no.2. Further, the custody of the minor child namely Damanpreet Singh will remain with petitioner no.1 and petitioner no.2 will not claim his custody in future. As agreed upon between the petitioners, a lump sum amount of Rs.7,80,000/-i.e.

petitioner no.1 has received Rs.4,00,000/- in cash on 28.09.2022 from petitioner no.2 and petitioner no.1 has further received Rs.3,80,000/- cash at the time of second motion statements on 16.11.2022 and petitioner no.1 has also recorded at the time of second motion statement that she has got prepared an FDR of Rs.3,80,000/- in the name of minor son Damanpreet Singh in Central Bank of India, Bhikhiwind and nothing is due between them. Further as settled they have exchanged all the dowry articles/istridhan including gold ornaments with each other. Further, they shall not claim anything in the matter of inheritance, maintenance or share from the property i.e. movable and immovable against each other in future. Further they will withdraw all cases so filed by them against each other. Further, they will not file any criminal and civil cases against each other in future. Further, no one can obstruct or object each other in any manner after passing decree under Section 13-B of the Hindu Marriage Act. They have also stated that the statements of both the petitioners have been given without any pressure, coercion and undue influence.”

7. From the perusal of above quoted paragraph extracted from decree of divorce, it is quite evident that respondent No. 2

appeared before the Family Court at the time of second motion and categorically stated that she has settled her all disputes with petitioner and she would appear before the competent court/authority to get FIR quashed.

8. In view of statements recorded by Family Court, it is quite evident that matter has been amicably settled and marriage stands dissolved. The respondent either has lost her interest to pursue the matter or she is resiling from her words. The petitioner cannot be left in lurch. It is well known fact FIR in matrimonial matters are mechanically lodged and thereafter matters are settled.

9. In view of findings recorded by Family Court, there seems no reason to continue trial against the petition. The present petition deserves to be allowed and accordingly allowed.

10. FIR No.20 dated 26.02.2016 registered at Police Station Bhikhiwind, District Tarn Taran, under Section 498-A of IPC and all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

(JAGMOHAN BANSAL)
JUDGE

19.05.2023

paramjit

Whether speaking/reasoned : Yes

Whether reportable : Yes/No