

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

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**Criminal Misc. No. M-42785 of 2021 (O & M)
Date of decision :-12.10.2023**

Paramjit Singh**.....Petitioner****Versus****State of Punjab and another****.....Respondents****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Kuljit Singh Bal, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
assisted by ASI Jaswant Singh.

NIDHI GUPTA J. (Oral)

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.62 dated 29.05.2016 registered under Sections 406, 498-A IPC at Police Station Women Cell, District Jalandhar City; and order dated 01.5.2017 passed by the Judicial Magistrate 1st Class, Jalandhar, whereby, petitioner was declared proclaimed person; 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 vide order dated 28.1.2020 (Annexure P-5) passed by the Family Court, Jalandhar and the complainant has received the entire amount as per compromise.

2. In brief, the facts are that marriage between the petitioner and the respondent No.2/complainant was solemnized on 25.01.2015 but on account of matrimonial differences, present FIR under Sections 406, 498-A IPC was registered at Jalandhar City. 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 herein would pay a sum of Rs.7,50,000/- as permanent alimony, maintenance and all other claims past and present to the complainant through Special Power of Attorney holder Surjit Kaur. On the statements recorded before the Additional Principal Judge, Family Court, Jalandhar, a decree of divorce was allowed under Section 13-B of the Hindu Marriage Act. The petitioner 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 also not giving her 'no objection' thereto. It is argued that the complainant is harassing the petitioner herein, despite having taken the entire alimony, and since all matrimonial disputes have been amicably settled, the instant FIR deserves to be quashed. Learned counsel in support of his contentions relied upon *Ruchi Agarwal vs. Amit Kumar Agarwal, 2004(4) RCR (Criminal) 949* and *Mohd. Shamim vs. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697*.

3. Notice of motion was issued, however, as per office report dated 08.2.2022, it is reported that respondent No.2 is evading service, therefore, notice was served through affixation at her house. Thus, despite service, no one has put in appearance on behalf of the

respondent No.2/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 petition came to be filed as far back as 05.10.2021 and the notice of motion was issued on 12.10.2021. The matter has remained pending in this Court for a considerable length of time, despite the fact that divorce has already been granted to the petitioner and respondent No.2.

5. As per of the office report, respondent No.2 has been served through affixation as she was evading service, hence, service upon respondent No.2/complainant is deemed to be effected. The petitioner herein praying for quashing of the FIR on the plea that all disputes between the parties stand settled and that the complainant has received the amount of Rs.7,50,000/- 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 Principal Judge, Family Court, Jalandhar 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, would disclose that it had been agreed by the parties to the marriage that they would be bound to withdraw complaints, if any, pending before any forum or court, as they had decided to dissolve marriage. The first motion statement was recorded on 20.04.2018 and the second motion statement was recorded on 12.12.2019. The petitioner has complied with his part of compromise by handing over an amount of Rs.7,50,000/- to the special power attorney holder of the complainant, however, the

complainant is not coming forth to get her statement recorded to the effect that she would have no objection if the FIR is quashed.

6. Despite the notice issued by this Court, she has failed to put in appearance, which conduct would compel this Court to conclude that the petitioner herein is being harassed. There are catena of judgments, which have laid down the principle that the wife cannot be permitted to back out of a compromise once she has availed 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:-*

"7xx 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 stopped 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. Furthermore, learned counsel states that petitioner has been declared proclaimed person without complying with the mandatory provisions of Section 82 Cr.P.C. and Section 105 Cr.P.C. It is further stated that the petitioner is residing in North America since 2015. In these circumstances, learned counsel for the petitioner relies upon *Nitin Jindal vs. State of Punjab and another, 2023(1) RCR (Criminal) 364* and *Amandeep Singh and others vs. Sate of Punjab and another, 2018(2) Cri. CC 162*, wherein co-ordinate Benches of this Court have held that order of proclamation can be set aside, when proclamation proceedings are initiated while proclaimed offender is not in India.

8. Keeping in view the above facts and legal position, 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. In the similar position, the FIR in question against the co-accused persons has already been quashed by co-ordinate Bench of this Court vide order dated 30.09.2021 in CRM-M-23028-2019 (Annexure A-1).

9. Consequently, the instant petition stands allowed and the FIR No.62 dated 29.05.2016 registered under Sections 406, 498-A IPC at Police Station Women Cell, District Jalandhar City and the order dated 01.5.2017 passed by the Judicial Magistrate 1st Class, Jalandhar, whereby petitioner was declared proclaimed offender and all subsequent proceedings arising therefrom are quashed qua petitioner.

October 12, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No