

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 46930/2022

Date of decision: 09.08.2023.

Rohan Verma and another

.....Petitioners

Vs.

State of Punjab and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abdul Aziz, Advocate for the petitioners.

Mr. Kunwar Bir Singh, AAG Punjab for respondent no.1.

Nidhi Gupta, J.

Prayer in this petition under Section 482 Cr.PC is for quashing FIR No. 112 dated 19.08.2019 U/s 406, 498-A of IPC, registered at Police Station Women Ludhiana, District Ludhiana (Annexure P-1), on the basis of Agreement/Compromise dated 05.12.2019 and all subsequent proceedings arising out of the same.

As per averments made in the petition marriage between petitioner no. 1 and respondent no.2 was solemnized in the year 2006. Out of their wedlock a child namely Krishna @ Krishu was born on 18.4.2007 and is presently living under the care and custody of petitioner no.1. Due to temperamental differences respondent no.2 left her matrimonial home and started residing at her parental house at Village Kohara, Tehsil and District Ludhiana. It is further averred that respondent no.2 lodged aforesaid FIR against the petitioners 1 and 2 who are husband and father-in-law respectively

of respondent no.2. While petitioner no.2-father-in-law was granted anticipatory bail by Id. Addl. Sessions Judge, Ludhiana vide order dated 29.8.2019 and confirmed vide order dated 24.9.2019, arrest of petitioner no.1-husband was stayed by this Court vide order dated 24.10.2019 in CRM-M 44637 of 2019 and parties were directed to appear for mediation before the Mediation and Conciliation Centre of this Court. The parties settled their dispute in mediation proceedings vide settlement agreement dated 5.12.2019 and CRM-M 44637/2019, in view of settlement agreement, was allowed vide order dated 13.2.2020. In the meantime, on 23.1.2020 petitioner no.1 and respondent no.2 filed a petition under Section 13-B of the Hindu Marriage Act for a decree of divorce by mutual consent, however, since the petitioner had not attained the age of 21 years on the date of their marriage i.e. 6.8.2006, the said petition was dismissed by Principal Judge, Family Court, Ludhiana vide order dated 8.1.2021. Aggrieved against the same, both of them filed FAO No.911/2021 which was allowed on 21.9.2021 by this Court by setting aside the order dated 8.1.2021 and a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955 was granted to the parties. Thereafter, petitioner no.1 approached respondent no.2 for quashing of the FIR, but respondent no.2 resiled from the compromise. Hence, the present petition.

Ld. Counsel for the petitioner submits that marriage between the parties stood dissolved vide order dated 21.9.2021 passed by this Court in FAO 911/2021. It is submitted that the petitioners have complied with and fulfilled all the terms and conditions of the settlement entered into between the parties. Further, as recorded in the last order dated 10.5.2023, the petitioner had handed over a demand draft for Rs.50,000/- to Id. State counsel as respondent no.2 was not present in Court on the said date.

At the time of hearing today, ld. State counsel on the basis of receipt dated 11.5.2023 signed by wife-respondent no.2 herein, produced in Court and taken on record as Mark-A, states that said demand draft for Rs.50,000/- was handed over to respondent no.2 on 11.5.2023.

Ld. Counsel for the petitioners submits that in terms of the compromise at Annexure P-6 petitioners have thus, paid full and final amount of Rs.1.80 lacs to respondent no.2, however, after receiving the said amount respondent no.2 has retracted from the compromise and is not coming forward to withdraw the cases, including the FIR in question, filed by her against the petitioners. Ld. Counsel submits that Hon'ble Supreme Court in **Ruchi Agarwal v Amit Kumar Agarwal, Law Finder Doc Id# 78949**; and **Mohd. Shamim v Smt. Nahid Begum, Law Finder Doc Id # 81379** has held that in criminal/civil litigation between the husband and wife once the parties have entered into compromise and have got divorce by mutual consent, if the wife does not withdraw FIR under Sections 498-A and **500** IPC then it is clear that the wife wants to harass the husband even after getting the relief and in such cases FIR ought to be quashed.

In the cited case **Ruchi Agarwal** (supra), the wife filed SLP before the Hon'ble Supreme Court challenging the order of the Hon'ble Uttaranchal High Court whereby criminal complaint filed by the wife against the respondent husband was quashed. Facts were similar therein as after grant of divorce under Section 13-B of the Hindu Marriage Act, 1955 the appellant-wife had resiled from compromise. In these circumstances, the Hon'ble Supreme Court quashed the FIR registered under Sections 498A, 323 and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Para 8 of said judgment reads as under:-

“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 Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of”.

In **Mohd. Shamim** (supra) Hon'ble Supreme Court held as under: -

“A. Criminal Procedure Code, Section 320 - Indian Penal Code, Section 406 and 498A - Compounding of offence - FIR under Sections 498A, 406 Indian Penal Code - Wife entering into settlement at intervention of court and accepting Rs. 2.25 lacs from husband - Wife backed out - FIR quashed - In view of conduct of wife, continuance of proceedings would be abuse of process of Court.

B. Criminal Procedure Code, Sections 320 and 482 - Indian Penal Code, Sections 498A and 406 - Compounding of offence - FIR under Sections 498A, 406 Indian Penal Code - Parties entering into settlement at the intervention of trial Judge - Wife accepted Rs. 2.25 lacs and another sum of 50,000 to be paid at the time of quashing the FIR - Petition for quashing of FIR - Wife backed out and stated agreement and affidavit were got signed by misrepresentation - FIR quashed - In view of conduct of wife continuance of Criminal proceedings would be an abuse of process of the Court. 2004(4) RCR (Criminal) 949 (SC) relied”.

Ld. State counsel submits that after preliminary investigation

FIR was registered in the present case and the matter is now fixed for trial.

However, ld. State counsel is unable to dispute the facts as noticed above or cite any case law to the contrary.

I have heard learned counsel for the parties. Despite the fact that service was effected upon respondent No.2 on 7.12.2022, no one appears on her behalf. Accordingly, present matter is being heard and decided to her absence. After completion of service it was only on 15.12.2022 that respondent no.2 was present in person and on the subsequent dates i.e. 9.2.2023; 16.2.2023; 4.5.2023 and 10.5.2023 neither respondent no. 2 came present nor was she represented by any counsel.

It is the considered opinion of this Court that in view of the admitted legal and factual position as noticed above it would be a travesty of justice to allow criminal proceedings against the petitioners to continue after the matter has been fully and finally settled between the private parties. Accordingly, the present petition is **allowed**, and FIR No. 112 dated 19.08.2019 U/s 406, 498-A of IPC, registered at Police Station Women Ludhiana, District Ludhiana (Annexure P-1) and all subsequent proceedings arising out of the same, are quashed.

09.08.2023.
Joshi

(Nidhi Gupta)
Judge