

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-8286-2023(O&M)

Date of order: 18.04.2024

Jaggatpreet Singh & Another

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kamal Narula, Advocate
for the petitioners.

Mr. Sukhsandesh Singh Chahal, AAG Punjab.

Nidhi Gupta, J.

Prayer in the present petition is for quashing **on merits** of FIR No.80 dated 08.09.2018 (Annexure P1) registered under Sections 498-A, 406 and 34 IPC at Police Station Vairokai, District Fazilka; **and** challan report under Section 173 Cr.P.C. for offences under Sections 498-A, 406 and 34 IPC; **and** all subsequent proceedings arising out of the FIR.

2. On 24.02.2023, following order was passed by a Co-ordinate Bench of this Court:-

“Learned counsel for the petitioners contends that the parties entered into a compromise settling all their disputes before the Mediation and Conciliation Centre of this Court, dated 20.12.20218 (Annexure P-3). Based upon that, decree of divorce by mutual consent was passed on 14.09.2019 (Annexure P-8). The settled amount of Rs.4.7 lakh towards all the claims of permanent alimony and maintenance etc. of the

complainant/respondent No.2 stand already paid to her by petitioner No.1. Despite that, she is not cooperating to get the FIR in question quashed, though it was agreed in the settlement between the parties.

Notice of motion for 24.04.2023.

Mr. Jashandeep Singh, Assistant Advocate General, Punjab, accepts notice on behalf of respondent No.1-State, and seeks time to file reply.”

3. Office report shows that respondent No.2 has been duly served. However, none is appearing on behalf of respondent No.2.

4. Learned State Counsel has already been granted opportunities vide order dated 24.02.2023, 09.10.2023 and 03.04.2024, for filing reply. However, even till date, no reply has been filed on behalf of respondent No.1/State.

5. Perusal of record shows that petitioner No.1 was married to respondent No.2 on 15.01.2018. No child was born out of this wedlock. Parties are living separately since 21.01.2018. FIR was registered by respondent No.2 against the petitioners i.e. husband and mother-in-law of the complainant/respondent No.2. Divorce has admittedly been granted to the parties vide decree dated 14.09.2019 (Annexure P8) passed by learned District Judge (Presiding Officer, National Lok Adalat), Fazilka under Section 13-B of Hindu Marriage Act. As per clause 5 of the said decree of divorce, the petitioners have paid Rs.4,70,000/- to the complainant/respondent No.2 as past, present and future alimony.

7. The averments made on behalf of the petitioners in the present petition are taken to be true as the same have not been contradicted/disputed. Therefore, FIR No.80 dated 08.09.2018 (Annexure P1) registered under Sections 498-A, 406 and 34 IPC at Police Station Vairokai, District Fazilka; **and** challan report under Section 173 Cr.P.C. for offences under Sections 498-A, 406 and 34 IPC; **and** all subsequent proceedings arising out of the FIR, are quashed qua the petitioners.

8. I am supported in my above said view by law laid down by Hon'ble Supreme Court in "**Ruchi Agarwal Vs. Amit Kumar Agrawal**" **Law Finder Doc ID # 78949**; and **Mohd. Shamim v Smt. Nahid Begum, Law Finder Doc Id # 81379**, wherein it has been held that in criminal/civil litigation between the husband and wife, once the parties have entered into compromise and have sought divorce by mutual consent, if the wife does not withdraw FIR under Sections 498-A and 506 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.

9. In the said 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 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”.

10. 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”.

11. In view of the above factual and legal position, present petition is **allowed**.

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

18.04.2024
Sunena

(Nidhi Gupta)
Judge

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