

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.8939 of 2023
Date of decision: 18.04.2024

Parvinder Singh through his SPA
and father Sh. Chuhar Singh ... Petitioner

Vs.

UT Chandigarh and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Tarun Kumar Sharma, Advocate,
for the petitioner.

Mr. Viranjeet Singh Mahal, Additional P.P. U.T., Chandigarh.

None for respondent No.2.

MANISHA BATRA, J.

1. The instant petition under Section 482 of Cr.P.C. has been filed by the petitioner seeking quashing of FIR No.314 dated 05.06.2013 registered under Sections 406 and 498-A of IPC at Police Station South Sector 34, District Chandigarh as filed by respondent No.2-complainant and the proceedings having emanated therefrom.
2. At the outset, it would be relevant to mention that the petiitoner had also challenged the order dated 30.10.2017 whereby he had been declared a proclaimed person in the aforementioned FIR. However, vide order dated 05.09.2023, the abovesaid order as declaring him as proclaimed person was set aside.
3. Brief facts relevant for the purpose of disposal of the present

petition are that the aforementioned FIR had been registered against the petitioner by respondent No.2 who is his wife making allegation of her being subjected to cruelty on account of demand of dowry and about criminal misappropriation of istridhan belonging to her. The petitioner who is appearing through his Special Power of Attorney has filed this petition seeking quashing of the aforementioned FIR on the basis of a compromise dated 30.04.2022 (Annexure P-2). As per the terms of the compromise, the parties had decided to part ways by filing a petition under Section 13-B of the Hindu Marriage Act and subject to payment of an amount of Rs.8 lacs by the petitioner to respondent No.2 by the time of recording their statements in second motion and it was also agreed that the respondent No.2 will withdraw all the litigation against the petitioner and the petitioner shall also do so.

4. It is further revealed from the record that in terms of the abovesaid compromise dated 30.04.2022 (Annexure P-2) the petitioner and respondent No.2 had jointly filed a petition under Section 13-B of the Hindu Marriage Act. It was also averred in the petition so filed that the petitioner shall file a petition for quashing of FIR No.314 and the respondent No.2 shall record her statement for quashing of the abovementioned FIR. This petition was decided on 07.12.2022. It is also proved from the contents of this judgment Annexure P-3 that the entire agreed amount of Rs.8 lacs had been paid by the petitioner to respondent No.2 by the time of recording statement in second motion and this fact had been admitted by respondent No.2.

5. The petitioner thereafter filed the present petition for quashing

of the FIR in pursuance of the compromise (Annexure P-2). However, on perusal of record, it also stands proved that the respondent No.2 on receipt of notice of the present petition had appeared through her counsel on 20.02.2023 and on 05.09.2023, counsel for respondent No.2 had submitted that he had no objection if the prayer as made by the petitioner in this petition is accepted. In view of no objection so given and after setting aside the order dated 30.10.2017 declaring the petitioner as a proclaimed person, this Court had directed the parties to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the genuineness of the compromise (Annexure P-2). The petitioner was directed to record his statement through his Special Power of Attorney holder and the parties were given direction to appear before the trial Court on 16.09.2023. The case had then been adjourned to 24.11.2023. However, as per the report received from the trial Court on that date, though the petitioner through his SPA and the Investigating Officer had appeared before it, but the respondent No.2 did not cause her appearance in this case. Further, even in this case she has not appeared subsequently either through counsel or herself though the matter had been adjourned to 30.01.2024, 07.03.2024, 08.04.2024 and even for today.

6. It is argued by learned counsel for the petitioner that since the petitioner had complied with all the terms and conditions of the compromise Annexure P-2 and the respondent No.2 received total amount of permanent alimony also and had made a joint averment in the petition filed under Section 13-B of the Hindu Marriage Act itself that

she would appear and record statement before the concerned Court for quashing of the FIR lodged by her against the petitioner, therefore, she was not at all justified in avoiding appearance and recording her statement. It is, therefore, argued that the petition be accepted and the FIR as filed against him may be ordered to be quashed. To fortify his argument, learned counsel for the petitioner has placed reliance upon authorities cited as **Ruchi Agarwal v. Amit Kumar Agrawal**, 2004 (4) R.C.R. (Criminal) 949; **Sandip Somany v. State of Haryana and another**, 2016 (2) Law Herald 1305 and **Karan Nischal and others v. State of Punjab and another**, 2015 (26) R.C.R. (Criminal) 647.

7. On the other hand, learned Additional P.P. U.T., Chandigarh has argued that keeping in view the gravity of the allegations, the petition does not deserve to be allowed.

8. I have given my thoughtful consideration to the contentions as raised by learned counsel for the petitioner and learned Additional P.P. U.T., Chandigarh and have gone through the record and on a perusal of the same, I am of the considered opinion that the petition deserves to be allowed for the reasons to be discussed hereinafter.

9. It is clear from a bare reading of the contents of the compromise (Annexure P-2) that the respondent No.2 had agreed to withdraw all the litigation as pending between the parties and the parties had agreed to file a petition for taking divorce by way of mutual consent after making payment of an amount of Rs.8 lacs by the petitioner to the respondent No.2 by way of permanent alimony. Then from the contents of Annexure P-3 i.e. copy of judgment dated 07.12.2022 as passed by the

Family Court, it is revealed that a joint averment had been made in the petition that the petitioner will file a quashing petition before this Court and the petitioner No.2 would record her statement for quashing of the FIR and they will also not proceed or initiate any civil or criminal litigation against each other. As discussed above, there is no dispute qua receipt of amount of Rs.8 lacs by respondent No.2 as permanent alimony.

10. Not even this, on 05.09.2023, Mr. Tejas Bansal, Advocate who had filed power of attorney on behalf of respondent No.2 gave no objection, if the prayer made by the petitioner in this petition was allowed and it is, thereafter, that the respondent No.2 neither appeared before the concerned Magistrate for recording her statement and also stopped being represented by any counsel before this Court also. It is explicit from the material placed on record that it was based on the compromise (Anneuxre P-2) that the respondent No.2 had obtained divorce under Section 13-B of the Hindu Marriage Act and had also received permanent alimony. For the reasons best known to her, she has failed to appear and record statement qua genuineness of the compromise before the Illaqa Magistrate in compliance of order passed by this Court on 27.07.2023 though the compromise was acted upon and the petitioner had performed his part of the obligation. As such, the respondent No.2 could not wriggle out of the same after receiving permanent alimony and procuring decree of divorce in her favour. The conduct of respondent No.2 by non-compliance of the terms of the agreement after entering into the same and availing the benefit therefrom, certainly amounts to an abuse of process of the Court and nothing else. It appears that she is not

interested in pursuing the case apparently with a view to harass the petitioner and she failed to appear before the Illaqa Magistrate for making statement despite the fact that she had been duly represented by counsel before this Court who had given no objection in this regard. In my considered opinion, she cannot be allowed to take benefit due to her non-appearance for the purpose of quashing of the FIR. In this context, I rely upon the judgments as cited by learned counsel for the petitioner which are to the effect that in such like cases, quashing of FIR can be directed even in absence of consent of the complainant before the Court.

11. In view of the discussion as made above and in exercise of inherent powers of this Court in terms of Section 482 of Cr.P.C., the petition is allowed and FIR No.314 dated 05.06.2013 registered under Sections 406 and 498-A of IPC at Police Station South Sector 34, District Chandigarh and all subsequent proceedings arising therefrom are ordered to be quashed as against the petitioner in order to prevent abuse of process of law and to achieve ends of justice.

18.04.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No