

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

262

CRM-M-7295-2020

Date of Decision: 01.04.2024

Rahul Soni

.... Petitioners

Versus

The State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vivek Kathuria, Advocate for the petitioner.

Mr. S.S. Chahal, AAG, Punjab.

None for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

1. The petitioner who is the husband of respondent No. 2-complainant, has filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 21 dated 28.01.2019 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station City Hoshiarpur, and all the consequential proceedings arising therefrom, on the basis of Settlement/Agreement dated 22.01.2020 (Annexure P-2), arrived at between the parties before the Mediation and Conciliation Centre of this Court.

2. Learned counsel for the petitioner, *inter alia*, submits that the present FIR emanates from the matrimonial dispute between the parties. Marriage of the petitioner with complainant/respondent No.2 was solemnized on 30.04.2015 and one daughter was born out of the said

wedlock on 21.06.2016. Due to temperamental differences, the parties could not cohabit together and started residing separately since 14.08.2018. Thereafter, better sense has prevailed between the parties and in order to live peacefully, parties have entered into a settlement/ agreement dated 22.01.2020 (Annexure P-2), before the Mediation and Conciliation Centre of this Court, according to which, both the parties have agreed not to proceed further with the FIR in question. Further, it is submitted that initially, 05 persons were named in the FIR, however, challan has been filed only against the present petitioner. It is further submitted that the petitioner has never been declared as proclaimed offender.

3. Learned counsel for the petitioner has placed on record a certified copy of order dated 09.09.2020 passed by the learned Family Court, Hoshiarpur, whereby the parties were granted divorce by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955. It is submitted that as per terms and conditions No. 6(a) of the settlement/agreement dated 22.01.2020 (Annexure P-2), the petitioner-husband had already paid the entire amount of Rs.15,00,000/- to respondent No. 2-complainant towards one time lump-sum maintenance, therefore, she is not intentionally coming forward before the learned trial Court for recording statement qua the compromise, despite granting 02 opportunities by co-ordinate Benches of this Court vide orders dated 30.05.2022 and 14.03.2023.

4. In support of his contentions, learned counsel for the petitioner has relied upon judgments of Hon'ble the 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.

5. 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”.

6. 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”.

7. No other argument is made on behalf of the petitioner.
8. Learned State counsel has not disputed the aforesaid submissions of learned counsel for the petitioner.
9. I have heard learned counsel for the petitioner as well as learned counsel for respondent No. 1-State.
10. Perusal of the case file shows that notice in the present case was issued on 18.02.2020. Thereafter, on 30.05.2022, when this case was listed for hearing, Mr. APS Rehan, Advocate, has put in appearance on behalf of respondent No. 2-complainant and a co-ordinate Bench of this Court directed the parties to appear before the learned Area Magistrate/trial Court on 08.08.2022 or on any date thereafter as fixed by the trial Court for recording their statements qua the compromise.
11. In compliance of the aforesaid order dated 30.05.2022, report dated 22.08.2022, was received from the trial Court to the effect that none of the parties have appeared for recording their statements. Thereafter, when this case was listed for hearing on 14.03.2023, following order was passed by a co-ordinate Bench of this Court:-

“Learned counsel for the petitioner contends that the statement of the parties could not be recorded before the trial Court in terms of the order dated 30.05.2022 passed by

this Court on account of a communication gap, which prevented the parties from reaching the trial Court. He seeks another opportunity to get the statements of the parties recorded.

Prayer is accepted.

Parties are afforded one more opportunity to get their statements recorded before the trial Court in terms of the order dated 30.05.2022, passed by this Court, by moving an appropriate application before the trial Court for the purpose, who shall submit its report before this Court on or before the next date of hearing, i.e., 04.05.2023.”

12. Pursuant thereto, learned Chief Judicial Magistrate, Hoshiarpur, has submitted her report vide letter dated 03.05.2023, duly forwarded by the learned District and Sessions Judge, Hoshiarpur, wherein it was reported that again, none from both the parties had come present in the Court for recording their statements qua the compromise. Even for the last 04 dates of hearing i.e.12.09.2022, 14.03.2023, 04.05.2023 and 12.10.2023, there is no representation on behalf of complainant/respondent No. 2. Therefore, it can safely be presumed that complainant/respondent No. 2 is not interested in contesting the present petition.

13. Hence, this Court finds that the matter has been settled between the petitioner and respondent No. 2. Petitioner and respondent No. 2 have already been granted decree of divorce by way of mutual consent vide decree of divorce dated 09.09.2020, passed by the learned Family Court, Hoshiarpur and petitioner had also paid the entire amount of Rs.15,00,000/- to the complainant/respondent No. 2 in terms of Clause 6(a) of the Settlement/Agreement dated 22.01.2020 (Annexure P-2). Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

14. In view of what has been discussed here-in-above, this petition is allowed and FIR No. 21 dated 28.01.2019 (Annexure P-1) registered under Sections 406 and 498-A IPC at Police Station City Hoshiarpur and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.

01.04.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No