



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

CRM-M-38770-2018

Date of decision: 28.11.2024

Manisha

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Amitabh Tewari, Advocate for the petitioner.
(Through VC)

Mr. P.K. Aggarwal, DAG, Haryana.

Mr. G.K. Sharma, Advocate for respondent No.2.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C seeking quashing of FIR No.492 dated 01.09.2017. registered under Section 380 IPC, at Police Station Model Town, Rewari (Annexure P-1) and all the subsequent proceedings arising therefrom.

2. The brief facts of the case are that petitioner got married to Devender Kumar Sharma son of complainant/respondent No.2 on 26.11.2015. Thereafter, matrimonial dispute arose between husband and wife and finally, the marriage was dissolved under Section 13-B of Hindu Marriage Act vide judgment and decree dated 24.07.2017. In the FIR Annexure P-1, complainant has alleged that petitioner committed theft of his one blank signed cheque and after filling its body, petitioner presented it to the concerned bank for its encashment but the cheque was dishonored



and its information was also given to the complainant. Only thereafter, the complainant came to know about theft of his blank signed cheque bearing 647409 of State Bank of India. Immediately, thereafter, the matter was reported to the police and consequently, FIR Annexure P-1 was registered against the petitioner.

3. The counsel for the petitioner inter alia contends that the allegations made in the FIR are totally false. Petitioner got married to son of complainant on 26.11.2015 and thereafter, they lived together for just three days and then the petitioner left the matrimonial home and thereafter, she never came back. In the meantime, the parties settled their dispute in an amicable manner and divorce petition under Section 13-B HMA was filed by husband and wife on 08.12.2016 and the said petition was allowed and decree of divorce under Section 13-B HMA was granted in favour of husband and wife vide judgment dated 24.07.2017. It is further contended that as the petitioner never visited the matrimonial home after 30.11.2015, there was no occasion for her to commit theft of the cheque in question. That there was also delay in lodging of FIR Annexure P-1, which is not explained by the complainant in any manner. It is further submitted that actually, one cheque of Rs.80,000/- and another cheque of Rs.3,90,000/- were handed over to the petitioner by the complainant during the divorce proceeding and the said payment was part of the total settlement which also included certain payment to be made out of Court. The cheque in question worth Rs.7 lacs was part of said out of Court settlement and was actually, handed over by complainant to the petitioner on 24.07.2017 i.e. the date fixed for recording of final statements of husband and wife in the divorce petition.



5. Reply by way of an affidavit of Satya Pal, Deputy Superintendent of Police, Rewari, filed on behalf of the State was taken on record. Complainant/respondent No.2 filed separate written reply.

6. The present petition is resisted by the State counsel and counsel for respondent No.2. Both of them have argued that from the perusal of the Annexure P-2, it is evident that the disputed cheque worth Rs.7 lacs was not part of the settlement which was effected between the parties. Thus, there was no occasion for the complainant to issue cheque worth Rs.7 lacs in favour of the petitioner on 24.07.2017. That this fact clearly shows that cheque in question bearing signature of the complainant which was kept by him in his house, was stolen by the petitioner and thereafter, misused by her by filling its body. It is further submitted that the alleged criminal complaint filed by petitioner under Section 138 NI Act, on the basis of the said cheque was also totally false and is already dismissed in default. It is further submitted that the present petition deserves to be dismissed being devoid of merits.

7. I have considered the submissions made by counsel for the parties.

8. During arguments, the counsel for the petitioner has not disputed the fact that the criminal complaint filed under Section 138 NI Act by the present petitioner against the complainant was dismissed in default. He further stated that after getting divorce from Devender Kumar Sharma son of the complainant, the petitioner has performed second marriage and is happy with the said marriage and she has decided to lead peaceful life and has given assurance that she will not move any application for restoration of



aforesaid criminal case lodged under Section 138 NI Act by her against the complainant herein.

9. As per Annexure P-2, it appears that petitioner performed marriage with son of complainant Suresh Chand Sharma on 26.11.2015 and husband and wife started living separately since 30.11.2015. From the perusal of documents which are available on the record, it is also apparent that cheque in question bearing No.647409 was relating to bank account No.30119568422 of the complainant Suresh Chand Sharma, in State Bank of India. The said bank account was closed by the complainant herein on 17.09.2016 and at that time, he handed over cheque book containing unused cheques bearing Nos.647415 to 647450 to the bank authorities. However, he did not return unused cheque No.647409 relating to aforesaid cheque book, to the bank at the time of closing of aforesaid bank account. It being so, there is possibility that the cheque in question bearing No.647409 may be handed over by the complainant herein to the petitioner in order to pay the balance amount which was agreed to be paid out of Court, by in laws of the petitioner at the time of recording of final statements of husband and wife, as per the settlement effected between the parties to resolve the matrimonial dispute. Admittedly, the date fixed for recording of final statements of husband and wife in the divorce petition was 24.07.2017. Even the timing of lodging of complaint by the complainant herein with the police regarding alleged theft of cheque also creates doubt with regard to his act and conduct. All these facts and circumstances create doubt in the prosecution story as per which it is alleged that the petitioner committed theft of aforesaid cheque in dispute.



10. Further, it is evident that the parties effected compromise and decree of divorce was granted under Section 13-B HMA. Once the matter was settled between petitioner and son of the complainant and the said settlement was given effect to in form of divorce by mutual consent, no further dispute survived between the parties. The petitioner has also given assurance through her counsel that she is not going to revive the criminal complaint lodged under Section 138 NI Act against the complainant herein. Further, the allegations made by the complainant with regard to factum of theft of his cheque appears to be doubtful.

11. In the light of the aforesaid facts and circumstances, no purpose is going to be served by keeping alive FIR Annexure P-1 and the prosecution of the petitioner on the basis of said FIR would result in injustice. This Court is further of the view that continuance of the proceedings against the petitioner on the basis of FIR Annexure P-1 would amount to abuse of the process of Court and the quashing of these proceedings would otherwise serve the ends of justice.

12. For the foregoing reasons, the present petition is allowed and FIR No.492 dated 01.09.2017, registered under Section 380 IPC, at Police Station Model Town, Rewari (Annexure P-1) is hereby quashed along with all the subsequent proceedings arising therefrom.

28.11.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**