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

CRM-M-26975-2024

Date of decision: 28.08.2024

Sandeep Kaur and others

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. R.S. Sekhon, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Kirat Pal Dhaliwal, Advocate
for respondent No.2.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.1 dated 10.02.2017 (Annexure P-1) under Sections 406/498-A of IPC registered at Police Station NRI Ludhiana, District Ludhiana and all other subsequent proceedings arising therefrom.

Reply by way of affidavit filed by respondent No.1-State in the Court today is taken on record.

Brief facts of the case are that petitioner No.5 and respondent No.2 got married on 23.02.2009 in accordance with Sikh rites and ceremonies. Out of this wedlock, no child was born. Thereafter, on account of temperamental differences and misunderstanding, petitioner No.5 and respondent No.2 started living separately since September, 2010 and thus, the present case.

Learned counsel for the petitioners *inter alia* contends that the FIR (supra) was registered on account of matrimonial dispute between petitioner



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No.5 and respondent No.2 and thereafter, both of them amicably settled their dispute and a compromise was effected between them on the premise that respondent No.2 would take all the cases back which have been initiated by her against the petitioners and would render statements in their favour on the condition that the petitioners will give her Rs.16.50 lac, out of which, Rs.2.50 lac will be paid by the petitioners in the shape of draft at the time of signing of the compromise deed by all the parties, which would be treated as expenses, *istridhan* and expenses of gold for the past, present and future. Further, Rs.7 lac will be given by the petitioners to respondent No.2 in the shape of draft at the time of filing of case regarding mutual divorce in the Court of learned Principal Judge, Family Court, Ludhiana and thereafter, when the first motion statements of both the parties will be recorded and remaining Rs.7 lac will be given by the petitioners to respondent No.2 at the time of recording of final statement of the divorce case and after getting mutual divorce, first party and second party can get married again as per their wish and no party will have any objection regarding the same. He further submits that respondent No.2 has given an undertaking in the compromise that at the time of the quashing of FIR (*supra*), respondent No.2 will cooperate and will make a statement in support of the compromise and now she has resiled from the compromise and now not coming forward to get the FIR (*supra*) quashed.

On 28.05.2024, the following order was passed:-

'The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.1 dated 10.02.2017 (Annexure P-1) under Sections 406/498-A of IPC registered at Police Station NRI Ludhiana, District Ludhiana and all other subsequent proceedings arising therefrom.

*Learned counsel for the petitioners inter alia contends that the FIR (*supra*) has been registered due to the matrimonial dispute*



between petitioner No.5 and respondent No.2 and there were multiple litigations between the parties on account of matrimonial dispute and the parties have resolved their dispute vide compromise dated 20.09.2021 (Annexure P-2) which is reproduced as under:-

'A) That the cases which has been initiated by the first party against the second, third and fourth party, that would be taken back by the first party and will give statements in the favour of first, second, third and fourth party on the condition that the second party and third party will give Rs.16 Lac 50 thousand to the first party. That the amount of Rs.16 Lac 50 thousand would be treated as the expenses, Istridhan and expenses of gold for the past, present and future. That out of Rs.16 Lac 50 thousand, Rs.2,50,000 will be paid by the second and third party through draft at the time of signing of this compromise deed by all the parties. That the amount of Rs.700000 out of left Rs.1400000 will be given by second and third party to the first party at the time when the case for mutual divorce will be filed by the first and second party in the court of Principal Judge, Family Court, Ludhiana and when the first motion statements of both the parties will be recorded, the amount will be given by second and third party through second party to the first party in the court by draft. That the remanning Rs.700000 will be given by second and third party through second party to the first party at the time of recording of final statement of the divorce case. That after getting the mutual divorce, the first party and second party can get married again wherever they want to and no party will have any objection regarding that.'

Learned counsel for the petitioners further relies upon the judgment passed by the learned Family Court vide order dated 01.09.2022 under Section 13-B of the Hindu Marriage Act (Annexure P-3) in which it has also been duly recorded that respondent No.2 settled her claim with regard to past, present, future maintenance and alimony with petitioner No.5. It is further contended that petitioner No.5 has already complied with all the terms and conditions incorporated in compromise (Annexure P-2) and has also paid the entire amount as settled between the parties. He further relies upon the judgment of the Hon'ble Supreme Court passed in 'Ruchi Agarwal vs. Amit Kumar Agarwal and others', 2004(4) RCR (Criminal) 949 and 'Mohd. Shamin vs. Smt. Nahid Begum', 2005(1) RCR (Criminal) 697.

Notice of motion.

Mr. Subhash Godara, Addl.A.G., Punjab puts in appearance and accepts notice on behalf of respondent No.1-State.

Process qua respondent No.2 be issued for 28.08.2024.



In the meantime, further proceedings before the learned trial Court shall remain stayed.'

Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the matter had been compromised between the parties and decree of divorce has also been granted vide order dated 01.09.2022 (Annexure P-3). Further, respondent No.2 has also received full and final amount of alimony from petitioner No.5. As such, respondent No.2 has clearly resiled from the compromise after deriving benefit from it and allowing the same would be detrimental to the cause of justice.

A two Judge bench of the Hon'ble Supreme Court in ***Ruchi Agarwal vs. Amit Kumar Agarwal 2004(4) R.C.R(Criminal) 949***, speaking through Justice Umesh C. Banerjee, opined as follows:

"6. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13B of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

7. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where Section 125 Criminal Procedure Code proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. Therefore, we are of the opinion

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that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.”

Further, a Co-ordinate bench of this Court in **Krishan Singh and Others vs. State of Punjab and Another 2020(4) R.C.R. (Criminal) 327**, speaking through Justice Jaishree Thakur, made the following observations:

*“7. The judgment as rendered in **Ruchi Agarwal (supra)** has subsequently been followed in **Mohd. Shamim vs. Smt. Nahid Begum, 2005 (1) RCR (Criminal) 697** and **Shlok Bhardwaj Vs. Runika Bhardwaj and others, 2015 (2) SCC 721**, wherein it has been held that after the matter has been settled between the parties the wife is estopped from continuing criminal proceedings. The judgment of **Mohd. Shamim vs. Smt. Nahid Begum(supra)** has subsequently been followed by this Court in '**Nirmal Sachdeva vs. State of Haryana and another, 2008 (27) RCR (Criminal)153**', '**Kamal Kishore and others vs. State of Punjab and another, 2006 (2) RCR (Criminal) 342**', and '**Naveen and others vs. State of Haryana and another 2019 CrL LJ 1004**' in CRM-M-17367-2018 decided on 06.12.2018 and '**Ram Lal and others Vs. State of Haryana and another, 2008(2) RCR (Criminal) 823**'.”(emphasis added).*

In view of the discussion above, the present petition is allowed and FIR No.1 dated 10.02.2017 (Annexure P-1) under Sections 406/498-A of IPC registered at Police Station NRI Ludhiana, District Ludhiana and all subsequent proceedings arising out of the same are hereby quashed *qua* the petitioners.

(HARPREET SINGH BRAR)
JUDGE

28.08.2024

Neha

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