

2024:PHHC:159715



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-26077-2023
Date of Decision: 02.12.2024

Babli ...Petitioner
Versus
Khillar Singh and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Lalit Singla, Advocate with
Ms. Varsh Sharma, Advocate
for the petitioner.

Mr. Rahul Jaswal, Advocate, for respondent No. 1.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the complaint, i.e., NACT/2751/2019 titled as **Khilar Singh Vs. Smt. Babli** filed under Sections 138/142 of the Negotiable Instruments Act 1881 (Annexure P-1) and all subsequent proceedings arising therefrom.
2. While issuing notice of motion on 22.05.2023, this Court had passed the following order:-

“The instant petition has been filed under Section 482 Cr.P.C. for quashing of complaint (NACT/275/19 titled

as Khilar Singh vs. Smt. Babli) filed under Sections 138/142 of the Negotiable instruments Act (Annexure P-1) and application for further adjournment and for deciding the complaint on merits, pending before the learned Judicial Magistrate Ist Class, Panipat and subsequent proceedings thereto.

Learned counsel for the petitioner inter alia contends that the respondent No.1 has compromised the matter and taken back the amount involved in the complaint under Section 138 of the Negotiable Instruments Act. He has suffered a statement on 05.04.2023 (Annexure P-2) to the effect that he has compromised the present complaint and wants to withdraw the same.

A perusal of the record clearly indicates that respondent No.1 has compromised the matter and has acted upon the said compromise by making a statement on 05.04.2023 and the learned trial Court, on the basis of said statement of respondent No.1, has passed the following order :-

“Today the case was fixed for cross-examination of complainant. Fresh power of attorney filed on behalf of complainant and same is taken on record at this stage, complainant has appeared and suffered a statement to the effect that the matter has been compromised with the accused, hence he wants to withdraw the present complaint. Heard. In view thereof case is adjourned to 24.04.2023 for consideration.”

The case of the petitioner is squarely covered by the judgment of this Court in Paramjit Khanna vs. Inder Pal, 2018(4) R.C.R. (Criminal) 757, wherein it was held that

a party to a compromise, after acting upon it and deriving benefit out of the same, cannot resile therefrom.

Notice of motion returnable for 11.07.2023.

Meanwhile, the proceedings before the learned trial Court shall remain stayed.”

3. During the course of arguments, learned counsel for the petitioner has reiterated the above mentioned submissions before this Court and submitted that the complaint (Annexure P-1) is being continued, just to harass and humiliate the petitioner and is liable to be quashed by this court.

4. On the other hand, learned counsel for the respondents submitted that there was no compromise between the petitioner and the respondent/complainant and the petitioner is yet to make the payments to the respondent No. 1. Even, as per the compromise, the petitioner had to pay a sum of Rs. 15 lacs to the respondent No. 1/complainant on 05.04.2023. After returning home, the petitioner did not pay even a single penny to the respondent No. 1.

5. I have heard the learned counsel for the parties at length and have perused the record carefully.

6. In fact, the similar controversy has been discussed by this Court as well as the Hon’ble Supreme Court in number of judgments and the Courts have pondered over the issue as to whether the continuation of such criminal complaints would amount to abuse of the process of the Court. The Hon’ble Supreme Court in a matter, i.e.,

Criminal Appeal No. 1274 of 2004 (Arising out of SLP (Crl.) No. 3769 of 2003) decided on 05.11.2004 titled as “**Ruchi Aggarwal Vs. Amit Kumar Agrawal**” has held as follows:-

“4.In the compromise petition, referred to herein above, both the parties had agreed to withdraw all the civil and criminal cases filed by each against the other. It is pursuant to this compromise, the above divorce as sought for by the appellant was granted by the husband and pursuant to the said compromise deed the appellant also withdrew Criminal Case No.63 of 2002 on the file of the Family Court, Nainital which was a complaint filed under Section 125 of the Criminal Procedure Code for maintenance. It is on the basis of the submission made on behalf of the appellant and on the basis of the terms of the compromise, said case came to be dismissed. However, so far as the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act is concerned, which is the subject matter of this appeal, the appellant did not take any steps to withdraw the same. It is in those circumstances, a quashing petition was filed before the High Court which came to be partially allowed on the ground of the territorial jurisdiction, against the said order the appellant has preferred this appeal.

5.From the above narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also undertook to withdraw all proceedings civil and criminal

filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent-husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

6.It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13(B) 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 Cr.P.C. 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 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”.

7. Still further, a Coordinate Bench of this Court in the case of ***Ram Lal and others Vs. State of Haryana and another, 2008(2) RCR (Criminal) 823***, has held that when the parties have entered into a compromise, and the complainant has backed out from the same, the FIR is liable to be quashed in such like situation. The relevant paragraph of the said judgment reads as under:

*“4. Learned counsel for the petitioners by placing reliance upon the judgment of Hon'ble Supreme Court in the case of **Mohd. Shamim Vs. Smt. Nahid Begum**,*

2005(1) RCR (Criminal) 697: 2005(1) Apex Criminal 299(SC) contends that in view of the compromise having been entered into between the parties and amount having been received by the complainant, the continuation of proceedings is nothing but misuse of the process of the Court. The Hon'ble Supreme Court has been pleased to observe as under:-

*14. This Court in **Ruchi Agarwal Vs. Amit Kumar Agrawal and others**, 2004(4) RCR (Criminal) 949(SC):2004(8) Supreme 525, in almost a similar situation has quashed a criminal proceeding against the husband, stating “Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of 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.*

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”.

8. A Coordinate Bench of this Court has held in the matter of **Paramjit Khanna Vs. Inder Pal**, 2018(4) R.C.R. (Criminal) 757 as under:-

12. Since both the parties have compromised the dispute before the Civil Court, which was followed by recording the statement of the parties and passing of a decree, distributing the property as settled between the parties,

especially in view of the Clause 'F' of the compromise, and as per the statement of respondent/complainant recorded before the Civil Court on 08.01.2014, that all the parties are bound by the compromise and all the civil and criminal litigation will be withdrawn, the filing of the written statement by the respondent, at this stage, contrary to the terms and conditions of the compromise, as well as to the factual position is nothing but an act to cause undue harassment to petitioners.

*13. Accordingly, this revision is allowed. The complaint dated 19.08.2006, under Sections 457,380,120-B IPC, titled as “**Inder Pal vs. Sushil Kumar and another**” (Annexure P-1), as well as the summoning order dated 06.07.2011 (Annexure P-2), are quashed. Respondent is directed to pay the litigation costs to the petitioners, which is assessed as Rs. 15,000/-”.*

9. Reverting back to the facts of the case of the present case and by taking into consideration the law laid down by the Hon’ble Supreme Court as well as this Court in the cases referred to hereinabove, it is unhesitatingly held that the respondent No. 1/complainant cannot be permitted to back out from the mutual settlement arrived at between him and the petitioner. If any of the parties are allowed to back out from their mutual settlement, it would amount to granting premium to a dishonest litigation and shall also render the Court proceedings to a mockery, which cannot be permitted in law.

10. As a consequence, the petition is allowed and the complaint, i.e., NACT/2751/2019 titled as “**Khilar Singh Vs. Smt. Babli**” filed under Sections 138/142 of the Negotiable Instruments Act 1881 (Annexure P-1) alongwith all subsequent proceedings are ordered to be quashed by this Court.

02.12.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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