

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

224

CRM-M-44040-2022(O&M)

Date of order: 18.04.2024

Karanvir Singh & Others

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. P.S. Jammu, Advocate
Mr. R.K. Poonia, Advocate
Mr. Naveen Sihag, Advocate
for the petitioners.

Mr. Sukhsandesh Singh Chahal, AAG Punjab.

Mr. Ankit Bishnoi, Advocate
for respondent No.2.

Nidhi Gupta, J.

Prayer in the present petition is for quashing **on merits** of FIR No.152 dated 05.05.2018 (Annexure P1) registered under Sections 377, 498-A, 506 and 34 IPC at Police Station Zirakpur, District SAS Nagar, Mohali; and all consequential proceedings arising therefrom.

2. On 10.10.2022, following order was passed by a Co-ordinate Bench of this Court:-

“Counsel for the petitioners urges that FIR (Annexure P-1), which is an outcome of a matrimonial dispute has been settled by virtue of settlement/agreement dated 18.12.2019 (Annexure P-3) arrived at before the Mediation and Conciliation Centre of this Court. He submits that in pursuance thereof, petitioner No.1 has paid the entire permanent alimony

of Rs.2.50 lacs to the complainant-respondent No.2 and marriage has been dissolved by mutual consent, vide judgment and decree dated 14.09.2020 (Annexure P-5). It is his categorical case that despite having received the entire permanent alimony, the complainant did not come forward to support the petition (CRM-M-6464 of 2020) filed by the petitioners seeking quashing of FIR (Annexure P-1) on the basis of compromise.

Notice of motion.

On asking of the Court, Mr. Vipin Pal Yadav, Addl.A.G., Punjab, accepts notice on behalf of respondent No.1-State. Upon instructions, he submits that charge has been framed, but no prosecution witness has been examined.

Mr. Ankit Bishnoi, Advocate assisted by Mr.S.S.Killianwali, Advocate accepts notice on behalf of the complainant-respondent No.2. He submits that complainant has re-married, but petitioner No.1 has been interfering in her second marriage and has maligned her character. He submits that because of the attitude of petitioner No.1, the complainant has withdrawn her consent.

List on 20.02.2023.

Reply, if any, be filed before the next date.

Considering the fact that petitioner No.2 is 86 years old grandmother of petitioner No.1, her personal appearance before the Trial Court is exempted subject to the following conditions:-

- (i) That the counsel for petitioner No.2 would appear in Court on each and every date of hearing.*
- (ii) That the counsel for petitioner No.2 will give undertaking before the Court about the instructions of petitioner No.2 to cross-examine the witnesses in her absence.*

(iii) *That petitioner No.2 will not dispute the identity of the witnesses examined in her absence.*

(iv) *That petitioner No.2 will give undertaking in the Court that she will put in appearance on every date as and when required by the Court.”*

3. Learned counsel appearing for respondent No.2 seeks a short accommodation. However, no ground is made out to adjourn the present matter.

4. Learned State Counsel, on instructions from ASI Baljit Singh, has informed that out of 14 witnesses, 2 have been examined so far and next date of hearing before the learned trial Court is 18.04.2024.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel for the parties and perused the case file in great detail.

7. The averments made on behalf of the petitioners in the present petition or the facts as noticed by this Court in above said order dated 10.10.2022 have not been controverted by learned counsel for respondent No.2/complainant. Even no reply has been filed on behalf of respondent No.2 despite the fact that almost 1-and-a-half years have transpired in the meantime.

8. Accordingly, in view of the law laid down by the Hon’ble 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.

9. 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".

10. 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”.

11. In view of the above factual and legal position, present petition is **allowed**. Therefore, FIR No.152 dated 05.05.2018 (Annexure P1) registered under Sections 377, 498-A, 506 and 34 IPC at Police Station Zirakpur, District SAS Nagar, Mohali; and all consequential proceedings arising therefrom, are quashed qua the petitioners.

12. Pending application(s) if any also stand(s) disposed of.

18.04.2024
Sunena

(Nidhi Gupta)
Judge

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