

(1998) 02 P&H CK 0091

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 15805-M of 1997

Anil Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 05-02-1998

Acts Referred:

Citation : (1998) 4 AICLR 111 : (1998) 2 RCR(Criminal) 320

Hon'ble Judges : B.Rai, J

Advocate : S.K. Hooda, N.S. Bawa, J.B. Jain, Advocates for appearing Parties

Judgement

B. Rai, J.

1. This is a petition under Section 482 Cr.P.C. read with Article 227 of the Constitution of India with a prayer for quashing FIR No. 199 dated 14.3.1997 under Sections 498A/406/506/34 I.P.C. Police Station Ambala Cantt, Distt. Ambala and all other subsequent proceedings thereto.

2. Brief facts of the case are that Satish Gandhi respondent No. 2 filed a complaint under Sections 498A/406/506/34 I.P.C. in the Court of Judicial Magistrate 1st Class, Ambala Cantt who is turn sent the same to the S.H.O. Police Station Ambala Cantt for inquiry under Section 156(3) Cr.P.C. After inquiry, F.I.R. No. 199 dated 14.3.1997 was registered against the petitioners. It may be mentioned here that Satish Gandhi complainant is the father of Anupam alias Annu who was married to Anil Kumar petitioner No. 1. Joginder Kumar and Inder Pal are brothers of Anil Kumar and Motia petitioner No. 3 is their mother. Respondent No. 5 is the wife of Joginder Kumar brother of the petitioner Anil Kumar. It is alleged petitioners No. 4 and 5 have been living separately from the very beginning. After the registration of the case, they made an application under Section 438 Cr.P.C. and were granted anticipatory bail by the learned Sessions Judge, Ambala vide his order dated 9.4.1997 (Annexure P2). Anil Kumar had filed a petition against his wife Anupam alias Annu for seeking divorce under the Hindu Marriage Act. That petition was registered as H.M.A. Case No. 64/97. In that case decree of divorce Annexure P3 dated 9.4.1997 was granted

by the District Judge, Ambala. Ultimately, the matter was compromised between the parties. The compromise deed was reduced into writing and was produced in the Court of District Judge, Ambala. Statement of Smt. Anupam was also recorded on 4.4.1997 in the Court of District Judge, Ambala in which she admitted that she had received a sum of Rs. 2.5 lacs in cash and also the gold ornaments. It was further stated by her that there remained no dispute whatsoever between the parties and she would not proceed with the criminal case filed against the petitioners under Section 498A I.P.C. The statement of Smt. Anupam is Annexure P4 with the petition. It was also alleged that all the dowry articles have been returned to the wife and the matter has been settled by way of lumpsum payment. In the case registered against the petitioners as alleged, no challan so far has been presented in the Court. It is pleaded by the petitioners that since the matter has been compromised, no useful purpose will be served to continue with the proceedings in relation to F.I.R. sought to be quashed.

3. In response to the notice, reply on behalf of respondent No. 1 has been filed by Kuldeep Singh A.S.I. by way of an affidavit. However, respondent No. 3 though represented by Mr. N.S. Bawa, Advocate, no reply has been filed. In his affidavit, Kuldeep Singh ASI has stated that the case was registered when the local police was satisfied with regard to the allegations contained in the complaint against the petitioners. However, the police case was sent untraced as compromise was arrived at between the parties. Divorce proceedings between the parties ended in compromise. The parties got their statements recorded before the Court regarding compromise. Whatever was exchanged between the parties in terms of kind or cash, it was on their own accord and in such a situation, it would be an exercise in futility to continue with the case. In view of these circumstances, the case was sent up as untraced to the concerned Ilqa Magistrate and that prayer of the police was accepted by the learned trial Magistrate vide order dated 14.7.1997.

4. It was argued by the learned counsel for the petitioners that as the matter was compromised between the parties, all disputes between them were settled in a Court of law by making statements and that compromise was impressed with the seal of the Court. The case was sent up by the police as untraced. It was a step in the right direction on the part of the police especially when that report has been accepted by the Ilqa Magistrate. It was, therefore, submitted that in view of the facts and circumstances of the case, F.I.R. No. 199 dated 14.3.97, under Sections 498A/406/506/34 I.P.C. Police Station, Ambala Cantt deserves to be quashed.

5. I find sufficient force in this submission. Once the compromise has been effected between the parties and all the disputes have been settled amicably, the material witnesses are not likely to support the prosecution case at the trial, I am of the view that if the proceedings in relation to the F.I.R. in question are allowed to continue that would tantamount to harassment not only to the

petitioners but also to the private respondents especially respondent No. 2 and other witnesses and that would not advance the interest of justice in any manner when the parties have said good bye to each other for ever by obtaining a decree of divorce from a Court of competent jurisdiction.

6. Accordingly, this petition is allowed. F.I.R. No. 199 dated 14.3.1997, under Sections 498A/406/506/34 I.P.C. Police Station Ambala Cantt and all other subsequent proceedings thereto, are quashed.