
(2009) 04 P&H CK 0363

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-3953 of 2009

Anil Sharma and another

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 15-04-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34

Citation : (2010) 1 RCR(Criminal) 671

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Advocate : Veneet Sharma, for the Appellant; Mehardeep Singh, Assistant Advocate General Punjab, For the Respondent No. 2 Mr. B.S. Mittal, for the Respondent

Judgement

Kanwaljit Singh Ahluwalia, J.—Present petition has been filed u/s 482 Cr.P.C. seeking quashing of the FIR No. 1 dated 01.01.2009 registered at Police Station Sadar, Roopnagar under Sections 406, 498-A, 34 IPC.

2. In the present case, a transfer application was preferred by respondent No. 2 estranged wife, Jyoti, bearing Transfer Application No. 423 of 2008 for transfer of petition u/s 9 of Hindu Marriage Act. The Transfer Application was listed before a coordinate Bench. During the pendency of the petition, a compromise was arrived at between the parties. The compromise was noticed in order dated 29th January, 2009 (Annexure P-2) passed in Transfer Application No. 423 of 2008. A joint statement of parties was also recorded in the Transfer Application, which also forms part of Annexure P-2.

On March 10, 2009, this Court had passed the following order :

Two bank drafts in total amounting to Rs. 2,50,000/- have been handed over by counsel for the petitioners to counsel for respondent No. 2. Photocopy of the bank drafts is taken on record. Thus, a sum of Rs. 2,50,000/- has been paid by

way of bank drafts to the respondent-wife in terms of the statement made by her before a Co-ordinate Bench, Annexure P-2. Counsel for the petitioners submit that second instalment as agreed, will be paid on or before 30.3.2009.

The dispute remains regarding return of dowry articles. The articles mentioned in the list may not have value more than Rs. 50,000/-. Therefore, Rs. 50,000/- be also given towards value of the articles. Thus, a sum of Rs. 3 lacs be paid on or before 30.3.2009.

As agreed, parties shall appear before the District Judge, Ropar on 23.3.2009 for presentation of petition u/s 13-B of the Hindu Marriage Act.

Case to come up for hearing on 15.4.2009.

3. Mr. B.S. Mittal, appearing for respondent No. 2 estranged wife, has stated that she has received an amount of Rs. 5,50,000/- in terms of order (Annexure P-2) and order dated March 10, 2009.

4. Jyoti respondent No. 2 estranged wife is present in Court. She has been identified by her counsel Mr. B.S. Mittal and by Kuldeep Singh HC, who has come present to assist Counsel for the State.

5. Counsel for respondent No. 2, on instructions from respondent No. 2 has stated that since the matter has been amicably resolved and the amount has been paid, present FIR be quashed. It has further been submitted that petition u/s 13-B of Hindu Marriage Act has been preferred by the parties and the same is pending in the Court of District Judge, Ropar.

6. Counsel for the parties have also made a statement that all litigation pending between the parties, i.e. petition u/s 125 Cr.P.C., u/s 9 of Hindu Marriage Act and civil suit preferred by the petitioner against the respondent No. 2 shall be withdrawn.

7. It has been held by a Full Bench of this Court in Kulwinder Singh and others v. State of Punjab and another, 2007(3) RCR(Cri.) 1052 that if compromise has been effected between the parties, the Court should quash the FIR, if the offence is non-compoundable.

8. It has also been held by Hon"ble Apex Court in B.S. Joshi v. State of Haryana, 2003(2) RCR (Cri.) 888 that if non-compoundable offence falls u/s 406, 498-A IPC, matter can be disposed off on the basis of compromise to promote peace, amity and cordial relations between the parties.

9. Taking into consideration the ratio of law laid down in Kulwinder Singh's case and B.S. Joshi's case (supra), present FIR, along with all subsequent proceedings, is quashed. However, in case civil suit preferred by the petitioner is not withdrawn, then respondent No. 2 estranged wife shall be at liberty to file application for recalling the present order.

With these observations, present petition is disposed off.