

(1989) 05 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 2391-M of 1989

Devinder Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 24-05-1989

Acts Referred:

Citation : (1989) 2 RCR(Criminal) 206

Hon'ble Judges : S.S.Grewal, J

Advocate : R.S. Chahar, Kulbir Singh, Ram Chander, Advocates for appearing Parties

Judgement

S.S. Grewal, J.

1. This petition under Section 482 of the Code of Criminal Procedure relates to quashment of first information report No. 316 dated 20th August, 1987, under Section 498A, Indian Penal Code, registered at Police Station Sadar, Karnal, and the consequent proceeding before the trial Court. Criminal Revision No. 110 of 1989 (Devinder Singh v. State of Haryana and another) is directed against the order passed by the Additional Chief Judicial Magistrate, Karnal, dated 8th December, 1988 whereby, permission to compound the offence under Section 498A, Indian Penal Code, was refused. As common questions of law and fact are involved in both these petitions, these shall be disposed of by one judgment.

2. In brief the facts relevant for the disposal of this petition are, that the petitioner and respondent No. 2 were married according to Hindu rites on 18th June, 1981. Subsequently, relations between the parties became strained, and the wife filed application under Section 125 of the Code of Criminal Procedure against her husband. The latter filed application for grant of divorce under Section 13 of the Hindu Marriage Act against the former, and, the said application was dismissed on 25.5.1985 by the Additional District Judge, Karnal. Since then both the parties are living separately, and the marital relations between the two have come to an end.

3. The wife also filed complaint under Section 498A IPC on 17th August, 1987 against her husband, his parents, and his maternal uncle Nawab Singh. The said complaint was referred to the Police, which registered the impugned FIR (Annexure P1) against them. She also filed complaint under Section 406 of the Indian Penal Code against her husband and her fatherinlaw Jiwan Singh. Due to intervention of the relations, a compromise was effected between the parties, and, an amount of Rs. 11,000/ was received by the wife from her husband as arrears of maintenance, as well as future maintenance. A copy of the compromise deed is Annexure P2. On account of the said compromise, execution proceedings, as well as complaint under Section 406, Indian Penal Code, were got dismissed.

4. Meanwhile, vide order dated 20th January, 1989, District Judge, Karnal, granted decree for divorce for dissolution of marriage between the parties, on the basis of mutual consent. A copy of the said judgment is Annexure P3.

5. On account of amicable compromise between the parties, quashment of impugned first information report (Annexure P1), and the subsequent proceedings is sought.

6. None of the respondents has filed any reply. Counsel for the parties were heard.

7. Learned counsel for the husband submitted on the basis of the Single Bench authority of this Court Pardeep Kumar v. State of Punjab and another, 1988(2) Recent Criminal Reports 477 , since the parties had effected a compromise, the impugned first information report may be quashed, and, there was no likelihood of conviction in view of the compromise between the parties. Counsel for the respondents, including for the wife, supported this contention.

8. It was also conceded by the counsel for the parties that the compromise has rightly been effected, as detailed in the compromise deed, copy whereof is Annexure P2 on the file. A perusal of para No. 3 of the said deed indicates that whole dispute has been amicably settled, and no dowry articles are recoverable from the husband, or from any other member, or relative of his family. In para No. 4 it is also mentioned that matrimonial relations between the husband and the wife have permanently come to an end. The said compromise has been effected voluntarily, willingly, and without any pressure.

9. It has been conceded on behalf of the wife that she does not want to pursue the present case under Section 498A, Indian Penal Code, against her husband, in view of the aforesaid compromise. Thus, there is no likelihood of conviction in the present case. In order to avoid involvement of both the parties in a protracted litigation, it would be desirable to quash the impugned first information report (Annexure P1), and, the consequent proceeding before the trial Court. Mere fact that the offence under Section 498A, Indian Penal Code, is not compoundable, would hardly make any material difference, inasmuch as, quashment of the first information report would be in the interest of the family

and the society as a whole. I am fortified on this point by the authority in Pardeep Kumar's (supra).

10. For the foregoing reasons, I hereby quash first information report (Annexure P1), and, the consequent proceeding taken, or, pending against the husband, in the Court of Additional Chief Judicial Magistrate, Karnal. This petition is, accordingly, allowed.

11. Criminal Revision No. 110 of 1989, filed by the husband for grant of permission to compound the offence under Section 498A, Indian Penal Code, is without any merit, and, the same is hereby dismissed.

Misc. dismissed.