

(2011) 09 P&H CK 0121

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-23803 of 2011 (O and M)

Kamal Kakkar and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 30-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 173, 482
Hindu Marriage Act, 1955 — Section 13, 13B, 9
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2012) 1 Crimes 464 : (2011) 4 RCR(Criminal) 620

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ranjit Singh, J.

Crl Misc. No. 52530 of 2011

Reply filed on behalf of respondent No. 2, is taken on record.

Application disposed of.

Crl Misc. No. M-23803 of 2011

1. Petitioner No. 1 married respondent No. 2 on 4.2.1999 and both were blessed with a son on 15.11.1999. Unfortunately, husband and wife could not maintain cordial relation and finally separated from each other on 4.10.2003. As usually happens in such like cases, litigation criminal as well as civil followed. Father of respondent No. 2 lodged FIR No. 269, dated 22.10.2003, against the petitioners under Sections 498-A & 406 IPC at Police Station Sector 31, Fardiabad. The said FIR was investigated and report u/s 173 Cr.P.C. was filed. The petitioners were charge-sheeted on 31.8.2006. There were earlier litigations too between the parties i.e. a petition u/s 9 of Hindu Marriage Act and so also a complaint u/s 125 Cr.P.C. Subsequently, husband-petitioner No. 1 filed a divorce petition u/s 13 of

Hindu Marriage Act. The parties had also approached the Court of Guardians, perhaps for the custody of the child.

2. With the passage of time, the tempers too has cooled down. Some respectables also intervened. Parties would have got tired for being in various courts in different proceedings. Parties appear to have seen the futility of litigation. They both have entered into a compromise. The compromise is recorded in the form of deed of settlement. The parties have agreed to withdraw all the litigations filed against each other for settling the dispute amicably.

3. Petitioner No. 1 had agreed to pay a lump sum amount of Rs. 10.00 lacs as a final settlement. The parties also agreed to file a divorce petition on mutual consent basis u/s 13-B of the Hindu Marriage Act on the basis of deed of settlement. As averred in the petition, the said divorce petition is allowed and the parties have been divorced on the basis of mutual consent. The statement of the parties were recorded in the divorce petition on 15.12.2010. The copies of the statements have also been placed on record as Annexures P-4 & P-5 respectively.

4. In terms of this agreement, petitioner No. 1 had already paid a sum of Rs. 3.50 lacs vide pay order No. 545145 dated 11.12.2010 and other sum of Rs. 3.50 lacs was paid vide pay order No. 031896 dated 11.7.2011. The petitioners had undertaken to pay the remaining amount of Rs. 3.00 lacs at the time of quashing of the FIR. Demand Draft No. 770319424, dated 15.7.2011 for a sum of Rs. 3.00 lacs has been handed over to respondent No. 2 in the Court, who is present in person. She has been identified by her counsel. I have satisfied myself from respondent No. 2 that she has voluntarily entered into a compromise. Respondent No. 2 states that she will not have any objection in case FIR No. 269, dated 22.10.2003, under Sections 498-A & 406 IPC, is quashed. Demand Draft is also accepted by her in the Court itself.

5. Since the parties have reached compromise and have decided to start their life afresh, no useful purpose would be served in allowing these criminal proceedings to continue. The parties otherwise have also separated. The compromise in such like matrimonial matters, would always be beneficial to both and otherwise is permissible in view of law laid down by Full Bench of this Court in *Kulwinder Singh and others v. State of Punjab and another*, 2007 (3) RCR (Cri) 1052. It has been viewed by this Court that power u/s 482 Cr.P.C cannot have any fetters and it can be eclipsed by any contingencies and the same cannot be made diminutive in sense and substance and cannot be a hostage to one class or category of cases. As held in this case, compromise in a modern society is the sine-qua-non of harmony and orderly behaviour. It is a soul of justice and if the power u/s 482 Cr.P.C. is used to enhance such a compromise, which, in turn, enhances the social amity and reduces friction, then it truly is finest hour of justice. A case, therefore, is made out to quash the FIR No. 269, dated 22.10.2003, under Sections 498-A & 406 IPC.

6. The present petition is, accordingly, allowed. FIR No. 269, dated 22.10.2003,

under Sections 498-A & 406 IPC, and all subsequent proceedings are hereby quashed.