

(2010) 04 P&H CK 0210
In the Punjab And Haryana At Chandigarh

Krishan Kumar Sharma and Varinder Singh and Others	APPELLANT
Vs	
State of Punjab and Another	RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Hindu Marriage Act, 1955 — Section 13
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2010) 04 P&H CK 0210

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.—Criminal Misc. No. 58189-M of 2006 has been preferred by Krishan Kumar Sharma, father-in-law, Krishana Kumari, mother-in-law and Shelly Prabhakar, sister-in-law, of Poonam Sharma, complainant/respondent No. 2, who had lodged the FIR No. 307 dated 29.11.2005, registered at Police Station Mohali, District Ropar, under Sections 406 and 498A IPC. Another petition bearing Criminal Misc. No. 66342-M of 2006 has been filed by Varinder Singh, husband of Poonam Sharma.

2. In both these petitions, the petitioners have prayed for quashing of the aforesaid FIR along with all the subsequent proceedings. Thus, they are being decided together.

3. On 9.11.2006, a Co-ordinate Bench of this Court had recorded the statement of learned Counsel the parties that they intend to arrive at an amicable settlement. Today, due to intervention of learned Counsel for the parties, an amicable settlement has been arrived at, which has been noticed in their statements, recorded separately. The statements made by them be read as a part of this order.

4. Petitioner Krishan Kumar Sharma has handed over three demand drafts bearing Nos. 431055 to 431057, total amounting to Rs. 20,00,000/-to her daughter-in-law Poonam Sharma. Another amount of Rs. 10,00,000/-by way of two demand drafts bearing Nos. 431053 and 431054 drawn in the name of

Chhavi Sharma, who is a minor daughter of Poonam Sharma. As per the statement made by Poonam Sharma, respondent No. 2, the amount of Rs. 10,00,000/-of Chhavi Sharma is to be kept in Fixed Deposit Receipt with the State Bank of Patiala, High Court Branch, Chandigarh, in highest earning rate of interest, till the solemnization of the marriage of her daughter. A liberty has also been granted to Chhavi Sharma daughter of Poonam Sharma that in case the amount, so deposited, is required by her at an early date, she will file an application to this Court for encashment of the said amount. It has been further agreed between the parties that another amount of Rs. 20,00,000/-will be deposited by Krishan Kumar Sharma in the Court of District Judge, Chandigarh, who shall keep the amount in the Fixed Deposit Receipt, in his name. The complainant has stated that she will facilitate quashing of the FIR but will standby the allegations levelled in the FIR and on the basis of the same, she will file petition for dissolution of marriage u/s 13 of the Hindu Marriage Act, 1955. Petitioner Krishan Kumar Sharma has stated that he will make every endeavour to cause appearance of his son Varinder Singh in the divorce proceedings and in case his son fails to appear within one month from the date of filing of the divorce petition, the District Judge, Chandigarh, may proceed exparte against him.

5. Criminal Misc. No. 66342-M of 2006 has been preferred by Varinder Singh through his father Krishan Kumar Sharma.

6. During the course of arguments, Mr. Sanjay Tangri, Advocate, on instructions from Krishan Kumar Sharma, has stated that Varinder Singh is aware of the compromise arrived at and the amount has been remitted by him. Therefore, he is bound to appear before the District Judge, Chandigarh. In case, he fails to appear, the necessary knowledge of the pendency of the proceedings of divorce may be imputed to him by the District Judge, Chandigarh. The District Judge, Chandigarh is directed to conclude the divorce proceedings expeditiously, in accordance with the provisions of law. The District Judge, Chandigarh, shall release the amount of Rs. 20,00,000/-kept in Fixed Deposit Receipt to Poonam Sharma, aggrieved wife, after the dissolution of marriage by decree of divorce, along with the interest which may accrue thereon.

7. In view of the broad consensus and compromise arrived at between the parties, this Court tends to quash the impugned FIR as no useful purpose will be served in continuation of the same and the subsequent proceedings arising therefrom.

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

9. It has also been held by Hon'ble Apex Court in "B.S. Joshi v. State of Haryana" 2003 (2) RCR (Criminal) 888 that if non- compoundable offence falls u/

s 406, 498A IPC, matter can be disposed of on the basis of compromise to promote peace, amity and cordial relations between the parties.

10. Taking into consideration the ratio of law laid down in Kulwinder Singh's and B.S. Joshi's cases (supra), present FIR, along with all subsequent proceedings, is quashed.

11. A copy of this order be furnished dasti to learned Counsel for the parties on payment of usual charges.

12. A copy of this order, attested by the Special Secretary of this Court, be also supplied to the Manager of State Bank of Patiala, High Court Branch, Chandigarh, for compliance.