

(2000) 12 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 44261-M of 2000

Manjit Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 21-12-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Hindu Marriage Act, 1955 — Section 13, 9
Penal Code, 1860 (IPC) — Section 120

Citation : (2001) 2 DMC 121 : (2001) 1 RCR(Criminal) 237

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

Bench : Single Bench

Advocate : Mr. T.P.S. Mann, for the Appellant; Mr. J.S. Brar, DAG and Mr. J.K. Kaushal, for the Respondent

Judgement

S.S. Nijjar, J.—Prayer made in this petition u/s 482 Cr.P.C. is for quashing of FIR No. 214 dated 15.10.1996 registered at Police Station SarabhaNagar, Ludhiana for offences under Sections 498A/406/420/494/120B IPC and the proceedings consequential thereto on the ground that the parties have reached an amicable settlement and that it would not be in the interest of justice to continue with the criminal proceedings. The parties are present in Court.

Heard counsel for parties.

2. The parties, namely, Yadvinder Singh-petitionerNo. 3 and Kuldeep Kaur @ Pinkoo-respondent No. 2 got married on 5.12.1995. At that time, Yadvinder Singh-petitioner No. 3 was resident of Canada and he came to India in the beginning of 1995 to get married. After the marriage, the couple lived together for a little time and thereafter, Yadvinder Singh-petitioner went back to Canada. He sent papers which would have enabled Kuldeep Kaur- respondent to migrate to Canada. Subsequently, however, the parents of Kuldeep Kaur did not wish to send her to Canada. When the parents of Yadvinder Singh tried to persuade Kuldeep Kaur-respondent to proceed to Canada, her parents got registered the FIR

mentioned above. Charges have been framed against the petitioners. Kuldeep Kaur had also filed a petition u/s 13 of the Hindu Marriage Act seeking divorce. When the petition, for divorce came up for hearing in the Court of Additional District Judge, Roop Nagar on 21.8.2000, the husband and the wife made separate statements indicating that they had settled the entire matter. Therefore, request was made for grant of divorce on the basis of the compromise. In the statement made by the husband- Yadvinder Singh, it is stated that he had also filed a petition u/s 9 of the Hindu Marriage Act for restitution of conjugal rights. It is further stated that he is prepared to pay a sum of Rs. 1,35,000/- as full and final settlement to the wife-Kuldeep Kaur for her further maintenance in case she agrees to withdraw all the cases pending against him and his family members at Ropar and in the court at Ludhiana. He also undertook to withdraw the petition u/s 9 of the Hindu Marriage Act. Similarly, Kuldeep Kaur made a statement stating therein that she accepts the offer subject to the condition that the payment will be made on the next date. She had undertaken that she will withdraw the complaint filed against the husband and his family members pending in the court at Ludhiana. She also stated that she has no objection in case the marriage is dissolved. She further stated that since they are living separately for the last five years, and there is no chance of reconciliation, she will accept the amount of Rs. 1,35,000 as full and final settlement for her future maintenance. It is also stated that she will not claim any future maintenance or dowry articles from the husband-Yadvinder Singh.

3. Parties are present in Court. It is accepted by the parties that the amount agreed upon has been deposited in the Court. In this Court, it has been stated by Kuldeep Kaur that this present petition may be finally disposed of only after the decree of divorce is granted.

4. I have considered the entire matter. I am of the opinion that the Court at Ropar has only now to pass a formal order granting divorce on the basis of the compromise. The petition u/s 13 of the Hindu Marriage Act will have to be formally converted to petition u/s 13B of the Hindu Marriage Act.

5. In view of the above, the Court of the Additional District Judge, Ropar is directed to pass a formal order granting divorce to the parties after passing the necessary order converting the petition u/s 13 to petition u/s 13B of the Hindu Marriage Act. Let the formal order be passed on 8.1.2001 itself. The amount deposited in the Court be released to the wife- Kuldeep Kaur on that date together with any accrued interest.

6. In the peculiar facts and circumstances of the case. I am of the considered opinion that it would not be in the interest of justice to permit the continuation of the criminal proceedings pending in the Court of Judicial Magistrate 1st Class, Ludhiana,

7. In view of the above, the petition is allowed. FIR No. 214 dated 15.10.1990, registered under Sections 498A/406/420/494/120B IPC at Police Station

SarabhaNagar, Ludhiana and the proceedings consequential thereto are hereby quashed. No costs,

8. Petition allowed.