
(1988) 08 P&H CK 0016

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition No. 3544-M of 1988

Pardeep Kumar and others

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 11-08-1988

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (1988) 2 RCR(Criminal) 477

Hon'ble Judges : Ujagar Singh, J

Bench : Single Bench

Advocate : Ravinder Chopra, for the Appellant; Parveen Goel for Respondent No. 1 and Mr. N.K. Kapoor, for the Respondent

Judgement

Ujagar Singh, J.—Respondent No. 2 was married to petitioner No. 1 on May 19, 1986 at Fazilka and earlier to the marriage Sagan was performed on May 18, 1986. On the last ceremony draft of Rs. 51,000/-, Colour T.V. and V.C.R. as also Bajaj Scooter were given. Fruit and Sweets worth Rs. 5000/- were also given. Father of respondent No. 2 died in the year 1978 and her marriage was performed by her brothers and mother after selling some land and gold. Apart from that relatives of respondent No. 2 also gave some gifts included in the list attached with the FIR, as Istridhan. These articles had been entrusted to petitioner No. 1, father of petitioner No. 1 Devi Das petitioner No. 3 and his brother Anil Kumar and articles remained in their control. She had been performing her duties as a dutiful wife and served her in-laws according to customs. It is, further alleged that the petitioners were not happy with the items of dowry and she started leading a very miserable life in the house of her husband. Thereafter, petitioner No. 1 was compelling her either to bring a Car or rupees one lac.

2. Certain other allegations were also made in the petition and it is said that ultimately respondent No. 2 was turned out of the house on June 19, 1986. All the petitioners at that time said that petitioner No. 1 was going to conduct

second marriage, some respectables were taken to bring back the Istridhan but the petitioner refused and said that they had misappropriated. The petitioners are said to have given mental and physical torture and therefore, they have committed offences u/s 498-A IPC and having misappropriated Istridhan an offence u/s 406 Indian Penal Code This case was registered vide FIR No. 115 dated May 16, 1987, Police Station (City) Abohar.

3. After completing the investigations, report under sections 173 Cr. P.C. was submitted before the Illaqa Magistrate and after perusing the paper, the said Court framed charge on 14-10-1987.

4. This petition was field for quashing the First Information Report as also the charge. On June 1, 1988, notice to the A.G. Punjab, was issued.

5. Today, the parties have appeared before me and have produced a compromise deed entered into between them. The terms of the compromise are reproduced as under:

(i) Respondent No. 2 shall withdraw First Information Report as also proceedings u/s 125 of the Code of Criminal Procedure, which is pending in the Court of Shri J.S. Bhatia, Judicial Magistrate 1st Class Abohar and petitioner No. 1 will withdraw his petition u/s 9 of the Hindu Marriage Act, and a Civil Suit for permanent injunction regarding restrain for second marriage, which is pending in the Court of Sub Judge.

(ii) Respondent No. 2, shall receive all articles of Istridhan, including all types of Jewellery, clothes, house-hold articles. V.C.R. T.V. Bajaj Scooter as also all sorts of presents and gifts given to her at the time of Sagan and marriage, which are all in her possession and control as sapurdar. These articles have been recovered by the police during the investigation. Out of these articles, one Diamond Ring and one Gold Ring are lying with the Police Station (City) Abohar as property of this case. These rings belong to the second respondent and she is at liberty to recover them back. The petitioner will have no right over the articles mentioned above.

(iii) Respondent No. 2 hasalso received a sum of Rs. 20,000/-through cheque No. RB/ABR/T. 020349 dated 15-5-1986 drawn on Central Bank of India branch Abohar, from her father-inlaw Shri Devi Dass. That the said amount stands duly credited in Saving Bank Account. Respondent No. 2 has also received Rs. 51,000/- as gift from her mother Shrimati Chandrawati and Shri Daljit Singh Chopra, Shri Ravinder Singh Chopra her brothers through three separate demand drafts of Rs. 17,000/-each to her. Respondent No. 2 shall remain the owner of both the above amounts.

(iv) The whole dispute is amicably settled and no articles are recoverable from the petitioners by respondent No. 2.

(v) Petitioner No. 1 will not claim any wifely duties from respondent No. 2 and vice versa as matrimonial relations have permanently come to an end with no

hope for any reconciliation and reunion in future.

(vi) Respondent No. 2 shall not claim any right of maintenance from petitioner No. 1 even after divorce and shall also not claim any right in any moveable or immoveable property of petitioner No. 1 either by way of alimony or by way of succession. She will also have no claim over any other individual of Hindu Undivided Family property of petitioner No. 1, including his insurance etc, in future.

(vii) Respondent No. 2 shall be at liberty to conduct marriage according to her own will and similarly, petitioner No. 1 shall also be at liberty to conduct his marriage according to his desires. Respondent No. 2 has not given birth to any child so far and she is not even pregnant from the loins of petitioner No. 1

(viii) The Police had recovered Rs. 65,000/- from petitioner No. 1 during investigation of this case, when he was in police custody and that amount was withdrawn from the current account of M/s Duni Chand Harbans Lal Saraf, Abohar. This amount solely belongs to petitioner No. 1 and he will be entitled to withdraw the same from the police and respondent No.2 and her mother, brothers will have no objection.

(ix) Petitioner No. 1 and respondent No. 2 have agreed to have consent divorce.

This compromise has been signed by petitioner No. 1, respondent No. 2 and so many other respectables. This compromise deed is supported by an affidavit of Shrimati Manju Bala, corroborating the same.

6. After satisfying myself I recorded the statements of Pardeep Kumar petitioner No. 1 and Manju Bala respondent No. 2 on oath. They have admitted compromise Annexure C1 and affidavit Annexure C2, as correct.

7. Offence u/s 406 is compoundable with the permission of the Court and in the circumstances there is no reason whatsoever to withhold the permission. Of course, offence u/s 498-A, Indian Penal Code, is not compoundable and is punishable only for a period of three years rigorous imprisonment. Respondent No. 2 has given her statement that the FIR was lodged due to some misunderstanding between the parties and in the compromise deed she has agreed to withdraw the case. In view of these circumstances and to avoid involvement of both the parties into a protected litigation, the Court cannot remain a silent spectator to wait for ultimate order. The whole prosecution is depending upon the stand taken by respondent No. 2 and she, having entered into compromise, no longer desires to continue litigation. The latest policy of the society is to settle the family disputes outside the Court. I am satisfied that by this compromise all the disputes between the two families have been settled. The amounts mentioned above are payable to the respective parties. This definite and achieved result is much better than unexpected, uncertain and speculative result of normally a prolonged litigation in courts of law when each party does its maximum to have it in its favour. This is also definitely in the interest of the

family and the society as a whole.

8. In view of the foregoing circumstances, the First Information Report is quashed, on the basis of the compromise with permission of the Court in respect of offence u/s 406, Indian Penal Code. As regards, offence u/s 498-A, Indian Penal Code, it has been observed that there is no likelihood of any conviction in view of the terms of the compromise. Therefore, this Court has no option but to quash the FIR, although the offence U/S 498-A Indian Penal Code is not compoundable even with the permission of the Court. This compromise has been allowed to prevail over the rule of law in the interest of administration of Justice in such matters. This petition is, therefore, accepted and the FIR as also the charge framed against the petitioners are quashed. Petitioner No. 1 will be entitled to withdraw the said amount of Rs. 65,000/- and one Dimond Ring and one Gold Ring will be handed over to respondent No. 2.