

(2008) 01 P&H CK 0240
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc. No. 16421-M of 2007

Ram Lal and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 25-01-2008

Acts Referred:

Constitution of India, 1950 — Article 142
Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 120B, 406, 420, 506

Citation : (2008) 01 P&H CK 0240

Hon'ble Judges : Vinod K.Sharma, J

Bench : Single Bench

Advocate : S.S. Antal, for the Appellant; Vikas Chaudhary, AAG, Haryana for the Respondent No. 1 and Mr. V.K. Jindal, Advocate for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Vinod K. Sharma, J.—This is a petition u/s 482 of the Code of Criminal Procedure for quashing of FIR No.125 dated 30.10.2006 under Sections 420/406/120-B, 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act, 1961, registered at police station Ismailabad, District Kurukshetra.

2. The only ground on which the present quashing is sought in this court is that the parties had entered into a compromise and therefore, all the articles given as gift prior to marriage were returned and in addition a sum of Rs. 50,000/- was paid by the petitioners to the complainant party.

3. The statement of Rattan Singh recorded in the Court of learned Additional Sessions Judge, Kurukshetra has been attached as Annexure P.2 to this petition whereas the statement of Tej Pal has been attached as Annexure P.3. Learned Addl. Sessions Judge, Kurukshetra has been pleased to record in his order dated 10.11.2006 as under:-

".....Since, the complainant wants to back out from the said compromise, so, he is directed to hand over the amount of Rs. 50,000/- as well as the articles taken by him from the side of the petitioner and similarly, Tej Pal, a relative of the petitioners present in the Court is also directed to return the articles and the amount so taken by him on 9.11.2006 to the complainant. On hearing this, the complainant Rattan Singh ran away from the court-room by saying that neither he will return the amount of Rs. 50,000/- so received by him in the Court, nor he will return the articles taken by him. Since, the complainant backed out from the compromise dated 9.11.2006, let the Album containing the photographs of the engagement/ring ceremony of the parties along with its negatives be returned back to the petitioners side."

4. Learned counsel for the petitioners by placing reliance upon the judgment of Hon"ble Supreme Court in the case of Mohd. Shamim v. Smt. Nahid Begum, 2005 (1) RCR (Cri) 697 : 2005 (1) AC 299 (SC) contends that in view of the compromise having been entered into between the parties and amount having been received by the complainant, the continuation of proceedings is nothing but misuse of the process of the Court. The Hon"ble Supreme Court has been pleased to observe as under:-

"14. This Court in Ruchi Agarwal v. Amit Kumar Agrawal &Ors. 2004 (4) RCR(Crl.) 949 (SC) : 2004 (8) Supreme 525, in almost a similar situation has quashed a criminal proceeding against the husband, stating:

"....Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

8. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue....."

15. In view of the conduct of the First Respondent in entering into the aforementioned settlement, the continuance of the criminal proceeding pending against the appellants, in our opinion, in the case also, would be an abuse of the process of the court. The appellant No. 1, however, would be entitled to withdraw the sum of Rs. 50,000/- which has been deposited in the court. We, therefore, in exercise of our jurisdiction under Article 142 of the Constitution of India direct that the impugned judgment be set aside. The First Information Report lodged against the Appellants is quashed. The appeal is allowed. However, this order should not be treated as a precedent."

5. In view of authoritative pronouncement of Hon"ble Supreme Court, this petition is allowed and the FIR and subsequent proceedings are ordered to be quashed.

6. It may however, be noticed that the petitioners herein have also lodged an FIR alleging therein that there was no compromise but in fact it was a case of cheating. Learned counsel appearing on behalf of the petitioners states that they would make a statement in Crl. Misc. No. 1215-M of 2007, for quashing the same on the basis of compromise entered into between the parties.