

(2004) 05 P&H CK 0127
In the Punjab And Haryana At Chandigarh
Case No : Criminal M. No. 39456-M of 2003

Ram Parkash Gupta and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 04-05-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 406

Citation : (2004) 9 CriminalCC 582 : (2004) 3 RCR(Criminal) 406

Hon'ble Judges : Satish Kumar Mittal, J

Bench : Single Bench

Advocate : Raman Sharma, for the Appellant; Sunil K. Vashisht, AAG, Haryana for Respondent No. 1 and Mr. Vikas Chatrath, for the Respondent

Final Decision : Allowed

Judgement

Satish Kumar Mittal, J.—The petitioners have filed this petition for quashing of FIR No. 366 dated 10.9.1999 under Sections 406/498-A/323/34 IPC registered with Police Station Sadar Bazar, Ambala Cantt and all the proceedings arising therefrom, on the basis of compromise.

2. The aforesaid FIR was lodged on the basis of statement made by respondent No. 2, who was married with petitioner No. 3. Petitioner No. 1 and 2 are the parents-in-law of the complainant-respondent No. 2, whereas petitioner No. 4 is her brother-in-law and petitioner No. 5 is his wife. Petitioner No. 6 is sister-in-law of the complainant and petitioner No. 7 is husband of petitioner No. 6.

3. The marriage between petitioner No. 3 and respondent No. 2 was solemnized on 8.12.1997. Subsequently, some differences arose between them. Consequently, respondent No. 2 lodged the impugned FIR against her husband and all his family members. Later on she filed a petition before this Court u/s 482 Cr.P.C. seeking proper investigation in the case. During the pendency of the said petition, good sense prevailed between the parties and they arrived at a compromise. A Copy of the compromise entered into between the parties has

been annexed with this petition as Annexure P-2. In view of the said compromise, this Court disposed of the aforesaid petition bearing Crl. Misc. No. 39636-M of 200 on January 23, 2001, by passing the following order:-

The learned counsel for the petitioner (Smt. Uma Gupta) has submitted that the learned counsel for the respondent, Dinesh Gupta (husband) has handed over a draft of Rs. 3,75,000/- dated 18.12.2000, in the name of Mrs. Uma Gupta to him, in pursuance of the compromise between the parties. The learned counsel for the petitioner has handed over the said draft to the petitioner, who is present in the Court today.

The learned counsel for the petitioner has submitted on the instructions from the petitioner, who is present in the Court, that the present petition may be dismissed as withdrawn with liberty to the petitioner to initiate the proper proceedings for divorce and quashment, before the appropriate Court at appropriate stage. Allowed as prayed. Dismissed as withdrawn.

4. Thereafter, the petitioners filed Crl. Misc. No. 17185-M of 2001 for quashing of the present FIR in view of the aforesaid compromise, but on 29.5.2001, the same was dismissed as withdrawn with permission to file a fresh petition after passing of decree of divorce between the couple. Accordingly, on 31.8.2001, petitioner No. 3-husband filed a divorce petition u/s 13-B of the Hindu Marriage Act, which was allowed by Additional District Judge, Ambala vide judgment and decree dated 3.6.2002. Thereafter, the instant petition for quashing of the FIR was filed on August 29, 2003.

5. Notice of motion of this petition was issued to the respondents. Reply on behalf of respondent No. 1 was filed by Inspector/SHO, Police Station Ambala Cantt. Short reply by way of affidavit has been filed by respondent No. 2 in the Court today. The same is taken on record. Respondent No. 2 in her affidavit has admitted that on 21.12.2000, a compromise was arrived and on the basis thereof, her marriage with petitioner No. 3 was dissolved vide judgment and decree dated 3.6.2002. She has deposed that vide the said compromise, it was agreed that FDR of Rs. one lakh, which was appended along with the challan filed by the police in the court of JMIC, Ambala belongs to her and the petitioners have no claim over the same. This condition was further reiterated by petitioner No. 3-husband before the Court of Additional District Judge, Ambala, while recording his statement in the petition u/s 13-B of the Hindu Marriage Act. In has been further deposed by respondent No. 2-wife that she has no objection if the FIR in question is quashed, but she is entitled for the release of FDR of Rs. 1 lakh which is lying in the court of JMIC, Ambala.

6. Counsel for the petitioners submits that as per the compromise, the FDR of Rs. 1 lakh, which is lying in the Court of JMIC, Ambala, is to be given to respondent No. 2-complainant and the petitioners have no objection if any such direction is issued to the JMIC, Ambala.

7. After hearing learned counsel for the parties and taking into consideration the

aforesaid facts and circumstances, I am of the opinion that the FIR in question is liable to be quashed the interest of justice and the FDR of Rs. 1 lakh lying in the Court of JMIC, Ambala should be released in favour of respondent No. 2. Since the parties have amicably settled their dispute by a bona fide compromise and petitioner No. 3 and respondent No. 2 have terminated their marriage by a consent decree of divorce, therefore, no useful purpose will be served by continuing with these criminal proceedings.

8. In view of the aforesaid facts and circumstances and the law laid down by the Hon"ble Apex Court in B.S. Joshi and Others Vs. State of Haryana and Another, under Sections 406/498-A/323/34 IPC registered with Police Station Sadar Bazar, Ambala Cantt and all the proceedings arising therefrom are hereby quashed in the interest of justice. However, the FDR of Rs. 1 lakh lying in the Court of JMIC, Ambala, is ordered to be released in favour of respondent No. 2.

9. Petition stands allowed accordingly.