

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20436-2015

Date of Decision: December 19, 2015

Avinash and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Balbir Singh Jaswal, Advocate,
for the petitioners.

Mr. P.S. Paul, DAG, Punjab,
for respondent No. 1.

None for respondent No. 2.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J. (Oral)

The present petition under Section 482, Cr.P.C., has been filed by Avinash and Darshan Kumar @ Ajay, for quashing of FIR No. 38, dated 30.5.2015 (Annexure P-1), for the offence punishable under Section 498-A, IPC, registered at Police Station, Women Cell, Amritsar, and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Vide order dated 29.6.2015, the affected parties were

directed to appear before the learned Area Judicial Magistrate/Trial Court, for getting their respective statements recorded with regard to the compromise. The said Court was also directed to send a report with regard to the veracity of the compromise to this Court.

In compliance thereof, the affected parties did appear before learned Chief Judicial Magistrate, Amritsar, and got recorded their respective statements with regard to the compromise.

Respondent No. 2/informant, Rajni Bala, suffered the following statement:-

“ I have got registered FIR No. 38 of 2015 under section 498A IPC police station, Women Cell against accused Avinash Kumar and Darshan Kumar and now with the intervention of respectables, entire matter between me and the accused has been amicably settled. I have arrived at the compromise with the accused, out of my free will and willful consent and there is no pressure or coercion upon me. I as well as the accused Avinash has filed petition under section 13B of the Hindu Marriage Act which is pending in the court of Sh Sham Lal, Ld. ADJ, Amritsar and is fixed for 23.10.2015. There is no other case pending except the petition under section 13B of HMA. I have no objection, if the FIR no. 38 of 2015 under section 498A IPC police

station, Women Cell is quashed.”

The petitioners also suffered a joint statement admitting the factum of the compromise.

The operative part of the report received from learned Court below is as under:-

“ From the statements of the parties it transpires that parties have willfully settled their differences and reached at bonafide compromise without any pressure and the same seems to be genuine. Hence, the requisite report.”

Learned counsel for the petitioners submits that the present criminal litigation has arisen out of a matrimonial dispute between petitioner No. 1, Avinash, and respondent No.2, Rajni Bala. Due to intervention of the respectable and elderly people of the society, they have resolved their all disputes and effected a compromise. As a sequel to the compromise, the husband and wife have decided to part with their company. He further submits that a petition under Section 13-B of the Hindu Marriage Act, 1955, was filed and a decree of divorce, dated 26.10.2015 has already been granted by learned Additional District Judge, Amritsar. He further submits that all the terms and conditions of the compromise have been materialized and at

present, there remains no dispute amongst the private parties. He further submits that in view of the compromise so effected between the private parties, pendency of the impugned complaint and consequential proceedings emanating therefrom would be sheer abuse of the process of law. In support of his contentions, learned counsel has placed reliance on the judgment of Hon'ble the Supreme Court delivered in the matter of **B.S. Joshi and others v. State of Haryana and another**, 2003 (2) R.C.R. (Criminal) 888.

Learned counsel for the State on instructions from ASI Jaswinder Singh of Police Station, Women Cell, Amritsar, and after going through the statements and the report received from learned Court below, very fairly admits that the private parties have resolved their dispute and effected a compromise. He further submits that he has no objection if the impugned FIR and all the consequential proceedings are quashed on the basis of the compromise.

After hearing learned counsel for the parties and going through the material available on record, this Court finds that the impugned FIR and the consequential proceedings had arisen out of a matrimonial dispute. During pendency of the same, better sense has prevailed and both the private factions

have resolved their dispute and effected a compromise. A decree of divorce, dated 26.10.2015, has already been passed by learned Additional District Judge, Amritsar.

The affected parties did appear before learned Court below and got recorded their respective statements. The report alongwith statements of the affected parties received from learned Court below would reveal that respondent No. 2/informant, Rajni Bala, has genuinely effected a compromise with the petitioners and she has no objection if the impugned FIR and consequential proceedings are quashed.

This Court also finds substance in the submission of learned counsel for the petitioners that pendency of the present criminal litigation would be abuse of process of law since the chances of conviction of the petitioners are bleak in view of the compromise so effected between the private parties.

In view of the statements suffered by the parties, report received from learned Court below, the admission on the part of learned counsel for the State, and taking into consideration the ratio of the judgment of Hon'ble the Supreme Court delivered in the matter of **B.S. Joshi (supra)**, present petition is accepted and FIR No. 38, dated 30.5.2015 (Annexure P-1), for the offence punishable under Section 498-A, IPC,

registered at Police Station, Women Cell, Amritsar, and all the consequential proceedings arising therefrom are hereby quashed.

(NARESH KUMAR SANGHI)
JUDGE

December 19, 2015
Pkapoor