

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26096-2015

Date of Decision: December 19, 2015

Munish Kumar Bhardwaj and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Ranjit Singh, 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 Munish Kumar Bhardwaj, Ramesh Kumar Bhardwaj and Monica Bhardwaj @ Mona Bhardwaj, for quashing of FIR No. 43, dated 10.4.2014 (Annexure P-1), for the offences punishable under Sections 406 and 498-A, IPC, registered at Police Station, Women, Patiala, and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Vide order dated 7.8.2015, the affected parties were granted liberty to move an application before learned Area Judicial Magistrate/Trial Court for getting their statements recorded with regard to genuineness of compromise. It was further ordered that on doing so, learned Court below will record their statements with regard to the compromise and send a report to this Court.

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

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

“ Stated that a compromise dated 6.4.2015 has been effected with accused persons as such I have no objections if the present FIR No. 43 dated 10.4.2014 under section 406, 498-A IPC P.S. Women Patiala registered against Munish Kumar Bhardwaj S/o Ramesh Kumar Bhardwaj, Ramesh Kumar Bhardwaj S/o Sham Lal, and Mona @ Monika Bhardwaj W/o Ramesh Kumar Bhardwaj, All R/o # 55, Bhagodhya Nagar Sharma Building, Kondwakhurad, Pune, Maharashtra is quashed. Compromise executed between me and the accused persons is without any pressure and with my freewill

and consent. We had also jointly filed a petition for divorce under Section 13-B of Hindu Marriage Act which is pending before the court of Sh. H.S. Madaan, Ld. District & Sessions Judge Patiala for 20.11.2015. The total amount was settled of my permanent alimony is Rs. 6 lacs and I have already received the amount of Rs. 3,00,000/- as my first installment on the first date of motion under section 13-B HMA and the remaining amount of Rs. 3 lacs will be received by me on the second date of motion of recording statement i.e. on 20.11.2015. All the istri dhan and articles were taken back in my possession from the accused belong to me and as per compromise. Now nothing is due towards the accused persons except Rs. 3 lacs which was to be paid by them on the second date of motion in divorce proceeding. I have brought the original compromise today in the court and the copy of the same is produced as Ex. CA which is true and correct and I identify my signatures over the same.”

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:-

“ It is submitted that none of the accused in the present case has been declared as Proclaimed offender at any stage of the proceedings.

From the statements of the parties, it appears to me that compromise entered into between the parties is genuine one and the same has been executed between the parties out of their free Will and consent, without any threat or pressure.”

Learned counsel for the petitioners submits that the present criminal litigation has arisen out of a matrimonial dispute between petitioner No. 1, Munish Kumar Bhardwaj, and respondent No.2, Neha. 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 by mutual consent, dated 30.11.2015, has already been granted by learned District Judge, Patiala. 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 FIR 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 Preetinder Singh of Police Station, Women, Patiala, 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.

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, Neha, 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. 43, dated 10.4.2014 (Annexure P-1), for the offences punishable under Sections 406 and 498-A, IPC, registered at Police Station, Women, Patiala, and all the consequential proceedings arising therefrom are hereby quashed.

(NARESH KUMAR SANGHI)
JUDGE

December 19, 2015
Pkapoor