

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-28548-2015

Date of Decision: December 5, 2015

Mahesh Kumar and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Shubhankar Baweja, Advocate,
for the petitioners.

Mr. Sanjay Kumar, AAG, Haryana,
for respondent No. 1.

Mr. Vishal Rattan Lamba, Advocate,
for Mr. Vaibhav Jain, Advocate,
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 Mahesh Kumar, Harinder Singh and Omwati Devi, for quashing of FIR No. 19, dated 6.1.2014, for the offences

punishable under Sections 406, 498-A and 506 read with Section 34, IPC, registered at Police Station, City, Bhiwani, and all the consequential proceedings arising therefrom, on the basis of compromise.

Vide order dated 26.8.2015, the affected parties were directed to appear before the learned Trial Court, for getting their respective statements recorded with regard to the compromise. The said Court was also directed to send a detailed report in that regard alongwith copies of the statements to this Court.

In compliance thereof, respondent No.2/informant/aggrieved woman, Babita Tanwar, as well as all the three petitioners did appear before learned Chief Judicial Magistrate, Bhiwani, and got recorded their statements with regard to the compromise.

Perusal of the statements received from learned Court below would reveal that both the factions have resolved their dispute. The operative part of the report received from learned Chief Judicial Magistrate, Bhiwani, is as under:-

“Complainant Babita made a statement to the effect that the matter has been compromised with accused Harender, Omwati and Mahesh. She has no

objection in disposing of the matter against them. Statement to this effect recorded separately. Accused Harender, Omwati and Mahesh have also suffered their separate joint statement that the matter has been compromised with complainant Babita without any pressure.

It is further submitted that the statements of the parties recorded by the undersigned and the same are genuine, voluntary and without any coercion or undue influence to my belief.”

Learned counsel for respondent No. 2/informant submits that as a consequence of the compromise, petitioner No.1/husband, Mahesh Kumar, and respondent No. 2/wife, Babita Tanwar, have decided to seek divorce and, as such, a petition under Section 13-B of the Hindu Marriage Act, 1955, was presented before learned District Judge, Bhiwani, and the same was accepted and a decree of divorce was passed. He further submits that all the terms and conditions of the compromise have already been materialized, therefore, respondent No. 2 has no objection if the impugned FIR and all the consequential proceedings are quashed on the basis of the compromise.

Learned counsel for the State on instructions from SI Ram Dhan of Police Station, City, Bhiwani, 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 to the termination of the present criminal litigation arising out of the matrimonial dispute.

Learned counsel for the petitioners urged that the present criminal litigation has arisen out of a matrimonial dispute and due to intervention of the respectable and elderly people of the society, the matter has been resolved and the private parties have effected a compromise. 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 contention, 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.

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 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 the statements suffered by the parties, report received from learned Court below, the admission on the part of learned counsel for the respondents, 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. 19, dated 6.1.2014, for the offences punishable under Sections 406, 498-A and 506 read with Section 34, IPC, registered at Police Station, City, Bhiwani, and all

the consequential proceedings arising therefrom are hereby
quashed.

(NARESH KUMAR SANGHI)
JUDGE

December 5, 2015
P Kapoor