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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.34829 of 2014
Date of Decision: 21.05.2015**

Jitender Bhargav

.....Petitioner

Vs

State of Haryana and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sandeep Sharma, Advocate
for the petitioner.

Mr. Rajesh K. Sheoran, Addl. AG, Haryana

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?*

RAJ MOHAN SINGH, J. (Oral)

Prayer in this petition is for quashing of FIR No.1283 dated 07.12.2010 registered under Sections 498A, 406, 323, 313, 506, 34 IPC, at Police Station Panipat City, District Panipat (Annexure P1) along with entire subsequent proceedings arising therefrom on the basis of compromise.

Matrimonial discord ended in compromise between the parties on 23.11.2013 when joint statement of petitioner and respondent No.2 was recorded before Judicial Magistrate Ist Class, Panipat. Contents of joint statement are reproduced hereunder:-

"Statement of Jitender s/o Atma Ram aged 33 years, occupation salaried, r/o Village Kaimla, District Karnal.

And

Statement of Meena w/o Jitender age 30 years, occupation-housewife, r/o Panipat.

On SA

Stated that compromise has been arrived at between us. That Meena has agreed to accept Rs.5,00,000/- (rupees five lakhs) against maintenance, istri dhan and other claims. Both the parties to this compromise, with their free will, will withdraw the cases filed by them and in case statement is required to be given in favour of the other facilitating withdrawal of the case, then they will be bound to give the statement. Now both the parties will not initiate any proceedings against each other and will be bound by this compromise. From now onwards neither Meena will have any relation with Jitender and his 2 children nor she can claim anything in future.

RO & AC

sd/-

Meena Rani

(ANURADHA)

Identified by Advocate SD/- Judicial Magistrate Ist Class

Jitender Kumar

Panipat

Identified by Advocate sd/-

23.11.13."

Thereafter, petition under Section 13B of Hindu Marriage Act was filed. A joint statement was recorded on 23.12.2013. The relevant extract of the statement is also reproduced as hereunder:-

"Joint statement of:-

Jitender Bhargav s/o Late Atma Ram aged 33 years, Private Job, r/o Village Kaimla, District Karnal. On SA

...Petitioner no.1

And

Meena Sharma w/o Jitender Bhargav d/o Late Ram Kumar, aged 31 years, housewife r/o 217/7 Gali Post Office, Amar Bhawan Chowk, Panipat. On SA

...Petitioner no.2

We were married on 27.1.1999 at Panipat according to Hindi rites and ceremonies. The marriage was consummated accordingly and two daughters Lakshika and Bhargavi were born on 2.1.2004 and 10.9.2008 respectively. Both said daughters are now living under the care and custody of petitioner no.1. For temperamental difference, we could not pull on together. We have been living separately since 1.10.2010. there are no chances of reconciliation. As per settlement arrived at between the parties, petitioner no.1 will pay Rs.5,00,000/- to petitioner no.1 as permanent alimony and istridhan. Out of the said settled amount, petitioner no.2 has received Rs.2,50,000/- today and the remaining amount of Rs.2,50,000/- will be paid at the timing of recording statement of second motion. We have decided to get decree of divorce by way of

mutual consent. Our petition may kindly be accepted.

RO & AC

sd/-

Sd/- Jitender

(Devender Singh)

Sd/ Identified by Advocate

ADJ, Panipat

Sd/- Meena Sharma

23.12.2013

I Adv Sandeep identify

petitioner no.2 Meena Sharma sd/-"

Apparently, at the time of first motion, an amount of Rs.2,50,000/- was paid to respondent No.2 out of total agreed amount of Rs.5 lacs. Remaining amount of Rs.2,50,000/- was to be paid at the time of second motion.

Second motion hearing took place on 03.07.2014 and the following joint statement was recorded by the Court on 03.07.2014 is reproduced as hereunder:-

"Joint statement of 1) Jitender Bhargav s/o Late Atma Ram r/o Village Kaimla, District Karnal Petitioner no.1

(2) Meena Sharma w/o Jitender Bhargav d/o Late Ram Kumar r/o 217/7 Gali Post Office, Amar Bhavan Chowk, Panipat Petitioner no.2.

On SA

Stated that our marriage has been taken place on 27.1.1999 according to Hindu rites and ceremonies. Two children have been born out of the said wedlock and are living with petitioner no.1. There is no dispute regarding custody of children. The parties to the petition developed strained relations due difference in tempraments. Thoughts and habbits and it was not possible for the parties to the petition to live together and to reconcile our relations by removing our grievances. The parties to the petition has separated themselves from each other from 1.10.2010. With the intervention of respectables and relatives the parties to the petition have decided to seek divorce by way of mutual consent from each other. The petitioner no.1 has given Rs.5 lacs to the petitioner no.2 as full and final settlement amount and Rs.2,50,000/- has given to the petitioner no.2 today as the remaining amount and now there remains nothing due towards petitioner no.2. All the amount for future maintenance of the petitioner no.2 have been received by petitioner no.1. the parties to the petition are living separately since 1.10.2010 and have not cohabited with each other since then. Fist motion statement was recorded on 23.12.2013. our marriage may kindly be dissolved by wayof mutual divorce under section

13 B of Hindu Marriage Act.

RO & AC

Sd/- Meena Sharma

Sd/- Identified by Advocate

Sd/- Jitender

I Adv Sandeep identify

the petitioner no.2 Meena sd/-"

sd/-

(Devender Singh)

ADJ, Panipat

3.7.014

At the time of second motion, balance amount of Rs.2,50,000/- was paid to respondent No.2. The Additional District Judge, Panipat passed decree of divorce by mutual consent on 03.07.2014 itself. Thereafter, this petition for quashing on the basis of compromise was filed in this Court on 07.10.2014. After issuance of notice of motion, respondent No.2 did not appear and fresh notice was issued to her.

On 04.12.2014, this Court has observed that respondent No.2 is avoiding service and service was taken to be complete upon her. The case was further adjourned to 12.01.2015.

On 12.01.2015, this Court observed that the compromise has already been effected between the parties and the parties are bound to make their statements. Respondent No.2 has already given her statement in the matrimonial Court. Respondent No.2 was again issued a notice to appear in person before this Court on the date fixed. Today also, none has appeared on behalf of respondent No.2. It appears that after having obtained divorce as well as settled amount to the tune of Rs.5 lacs, respondent No.2 is not interested in getting this FIR quashed on the basis of compromise. This Court is not left with any alternative but to proceed with the case in the absence of respondent No.2. Respondent No.2 cannot breathe hot

and cold in the same breath, particularly when she has already taken the settled amount. Matrimonial proceedings have already entailed in decree of divorce. This Court while exercising powers under Section 482 Cr.P.C. can grant indulgence in order to prevent abuse of process of law and to achieve ends of justice. Petitioner cannot be left high and dry in such a situation, particularly when he has already performed his part of obligation by making good the agreed amount and by deposing before the matrimonial Court in the context of compromise. The compromise has already been implemented. It should have been implemented for quashing of instant FIR at the instance of respondent No.2. Even if the respondent No.2 does not come forward for making statement or giving consent for quashing the present FIR, this Court feels that it can be quashed in view of attending circumstances of the case. Petitioner No.2 cannot be allowed to backtrack from the compromise without paying back the amount and without getting the decree of divorce annulled. Both the daughters are in care and custody of the petitioner and are being brought up by him with all love and affection. Respondent No.2 was successful in seeking immunity from any responsibility qua minor daughters and after taking the hefty amount, she has not turned up and honour the compromise in its letter and spirit. Learned counsel for the petitioner relies upon **2004 RCR (Criminal) 949 titled as "Ruchi Agarwal V. Amit Kumar Agrawal"** to contend that after partial implementation of compromise, the intending harassment on

behalf of wife cannot be allowed to persist. Further, in view of **2008 (2) RCR (Criminal) 823 titled as “Ram Lal and Others V. State of Haryana”**, if a party backs out from the compromise after harvesting the fruits without any reasonable cause, then such a course is deplorable and cannot be sustained in law.

In view of the aforesaid facts, FIR No.1283 dated 07.12.2010 registered under Sections 498A, 406, 323, 313, 506, 34 IPC, at Police Station Panipat City, District Panipat (Annexure P1), and all the subsequent proceedings arising therefrom, are quashed.

May 21, 2015
SwarnjitS

(RAJ MOHAN SINGH)
JUDGE