

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41491-2014 (O&M)

Date of Decision: January 23, 2015

Harvinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Binderjit Singh, Advocate,
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab,
for respondent No. 1.

Mr. Sukhwinder Singh Sudan, Advocate,
for Mr. Pankaj Bhardwaj, Advocate,
for respondent Nos. 2 and 3.

NARESH KUMAR SANGHI, J. (Oral)

1. Prayer in this petition is for quashing of FIR No. 393, dated 17.9.2007, under Sections 406 and 498-A, IPC, registered at Police Station, Sadar, Amritsar, and all the consequential proceedings arising therefrom, on the basis of the compromise.
2. Vide order dated 4.12.2014, 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 on or before the adjourned date.

3. In compliance thereof, complainant/respondent No.2, Pal Singh, prosecutrix/respondent No. 3 (wife), Nirmal Kaur, as well as petitioner No. 1 (husband), Harvinder Singh, did appear before learned Judicial Magistrate Ist Class, Amritsar, and got recorded their respective statements with regard to the compromise. The aggrieved wife, i.e. respondent No. 3 suffered the following statement:-

“ A compromise has been effected between myself and my husband Sh. Harwinder Singh and Kanwar Yadwinder Singh and other co-accused where by we have resolved our dispute with mutual consent vide compromise dated 05.11.2014 Ex. C1. We have filed a petition u/s 13-B of HMA for the dissolution of marriage which is pending in the court of Smt. Preeti Sahni ADJ Amritsar and fixed for 15.04.2015. I have received an amount of Rs. 4 Lacs vide two demand drafts bearing no. 368946 dated 17.12.2014 for Rs. 3 Lacs of State Bank of Patiala and bearing no. 441153 dated 17.12.2014 for Rs. 1 Lacs of State Bank of Hyderabad in my name and in the name of my daughter Diljot Kaur. I have also received a Cheque bearing no. 013721 dated 15.04.2014 for Rs. 6 Lacs as collateral security as per the terms of the compromise. The compromise Ex. C1 is genuine compromise which has been signed by me

with my free consent without any pressure or duress or mis-representation. I have no objection if the FIR no. 393 dated 17.09.2007 u/s 406/498A IPC of P.S Sadar Amritsar is quashed as per terms and conditions of compromise by the Hon'ble Punjab and Haryana High Court."

4. Respondent No. 2, Pal Singh, who is the complainant in this case, supported the stand of his daughter (respondent No. 3). Petitioner No. 1, Harvinder Singh, also admitted the factum of the compromise. Perusal of the report received from learned Judicial Magistrate Ist Class, Amritsar, reveals that the compromise effected between the private parties was voluntary one. The parties had got recorded their statements without any coercion or inducement.

5. Learned counsel for the petitioners submits that the present criminal litigation has arisen out of a matrimonial dispute between petitioner No. 1 and respondent No. 3. 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. All the terms and conditions of the compromise have been materialized and out of the agreed amount, part payment was made at the time of first

motion of the divorce petition; part amount was paid at the time of recording of the statements before learned Judicial Magistrate Ist Class; and the remaining amount shall be paid to respondent No. 3 at the time of second motion of the divorce petition. He further contends that in view of the compromise so effected between the private parties, pendency of the impugned FIR and the consequential proceeding arising therefrom, would be sheer abuse of the process of law since the chances of ultimate conviction and sentence of the petitioners are bleak.

6. Learned counsel for the State has gone through the copies of the statements suffered by the private parties and the report received from learned Judicial Magistrate Ist Class, Amritsar, and has also sought instructions from HC Harjinder Singh of Police Station, Sadar, Amritsar. He has no objection with regard to quashing of the impugned FIR and the consequential proceedings emanating therefrom on the basis of the compromise. He also fairly concedes that the petitioners are neither required nor involved in any other case.

7. Learned counsel for respondent Nos. 2 and 3 also admits the factum of the compromise. He further submits that respondent Nos. 2 and 3 did appear before the learned Court below and suffered their statements with regard to the

compromise. Out of the agreed amount of Rs. 16,00,000/-, Rs. 10,00,000/- have already been received and the remaining Rs. 6,00,000/- would be paid by the petitioners at the time of second motion of the divorce petition, which is fixed for 15.4.2015 before learned District Judge, Amritsar. He further submits that he has instructions to state at the bar that respondent Nos. 2 and 3 have no objection if the impugned FIR and all the consequential proceedings emanating therefrom are quashed on the basis of the compromise.

8. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

9. The present criminal litigation has arisen out of a matrimonial dispute. Petitioner No. 1 (husband) and respondent No. 3 (wife) have resolved all their disputes and effected a compromise. As a sequel to the said compromise, a petition under Section 13-B of the Hindu Marriage Act was presented before learned District Judge, Amritsar, in which first motion has already been issued and the case is now fixed for 15.4.2015 for second motion. Out of the agreed amount of Rs. 16,00,000/-, Rs. 10,00,000/- have already been paid to respondent No. 3 by the petitioners. It has also been averred that this compromise is for

the welfare of the persons named in the impugned FIR and the said fact has also been admitted by learned counsel for respondent Nos. 2 and 3. Hon'ble the Supreme Court, in the matter of **B.S. Joshi and others v. State of Haryana and another**, 2003 (2) R.C.R. (Criminal) 888, has held that criminal proceedings arising out of matrimonial disputes can be quashed by the High Court while exercising jurisdiction under Section 482, Cr.P.C.

10. As a sequel to the above discussion, this petition is accepted and FIR No. 393, dated 17.9.2007, under Sections 406 and 498-A, IPC, registered at Police Station, Sadar, Amritsar, and all the consequential proceedings arising therefrom are hereby quashed.

January 23, 2015
Pkapoor

(NARESH KUMAR SANGHI)
JUDGE