

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

Crl. Misc. No.M-15647 of 2014

Date of Decision: 17.02.2016

Davinder Singh Bhella and anotherPetitioners

Versus

State of Punjab and anotherRespondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Kanwaljit Singh, Sr. Advocate
with Mr. B.B.S. Randhawa, Advocate
for the petitioners.

Mr. Rupam Aggarwal, D.A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J.

This petition has been filed under Section 482 of the Cr.P.C by the petitioners, namely, Davinder Singh Bhella and Manjit Kaur for quashing of FIR No.131 dated 05.07.2006 registered under Sections 406 and 498-A IPC at Police Station City Kotkapura and all consequential proceedings arising therefrom.

Petitioner no.1-Davinder Singh Bhella was married to respondent No.2 on 03.06.2001. After marriage, both the parties resided together as husband and wife only for a period of few days at Ludhiana.

Thereafter, they were separated from each other due to the differences

arose between them. A complaint was made by respondent No.2 and on the basis of said complaint, the FIR, in question, was registered against the petitioners, whereas, they were not present even in India. No service was effected upon them. Ultimately, they were declared as proclaimed offenders vide order dated 08.07.2012. However, during pendency of the proceedings, a compromise was arrived at between the parties and a divorce petition filed under Section 13-B of the Hindu Marriage Act was allowed and divorce was granted. Three co-accused of the petitioners were acquitted of the charge by the Chief Judicial Magistrate, Faridkot vide its judgment dated 04.12.2012.

The present petition has been filed by the petitioners through Special Power of Attorney.

Learned counsel for the petitioners submits that the petitioners were not present in India when the FIR was lodged. Both the petitioners are residing in United States of America and they have not visited India since the year, 2001. A compromise was arrived at between the parties and as per terms and conditions of the compromise, an amount of ₹ 20,50,000/- has already been paid to respondent No.2 as full and final settlement. A petition under Section 13-B of the Hindu Marriage Act was filed for dissolution of marriage by mutual consent and the same was allowed vide judgment and decree dated 01.02.2014. Learned counsel also submits that both the parties have settled in their life and the complainant has no objection in quashing of the FIR as well as other proceedings arising therefrom.

Learned counsel appearing for the respondent has affirmed the factum of compromise and also regarding receiving the amount in *lump sum*.

A perusal of judgment passed in the petition filed under

Section 13-B of the Hindu Marriage Act shows that the matter has been compromised between the parties and respondent No.2-complainant has received an amount of ₹ 20,50,000/- from petitioner No.1 through his attorney-Jagdish Singh Bhella as past, present and future maintenance. In the petition filed under Section 13-B of the Hindu Marriage Act, the complainant suffered a statement on 10.05.2013 stating therein that a divorce petition with mutual consent will be filed in view of the compromise arrived at between the parties. The statements of both the parties were recorded through their attorney. However, on the basis of that statement, the divorce has been granted. The petition filed under Section 13-B of the Hindu Marriage Act was allowed by recording a specific finding that the Court was satisfied that the marriage between petitioner No.1 and respondent No.2 has broken and there is no chance of revival of their relationship as husband and wife. All mandatory provisions of law have been complied with. Said petition was allowed and the decree of divorce with mutual consent was passed, whereby, the marriage between the parties was dissolved.

The Division Bench of this Court in case ***Sudo Mandal @ Diwarak Mandal vs State of Punjab 2011(2) RCR (Criminal) 453*** and single Bench of this Court in cases ***Sanjay Sarin vs State (Union Territory, Chandigarh) 2013(3) RCR (Criminal) 138*** as well as ***Deepak Arora vs State of Haryana and another 2015(7) RCR (Criminal) 649*** has held that criminal proceedings including the order declaring a person as P.O can be quashed when there is a compromise between the parties.

Keeping in view the facts as mentioned above and by considering the compromise arrived at between the parties and having no objection from the other side, the present petition is allowed and FIR

No.131 dated 05.07.2006 registered under Sections 406/498-A IPC at Police Station City Kotkapura along with all consequential proceedings arising therefrom, qua petitioners Davinder Singh Bhella and Manjit Kaur are hereby quashed.

17.02.2016
gurpreet

(DAYA CHAUDHARY)
JUDGE