

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

**Criminal Misc. No. M-20547 of 2012
Date of decision: 23.04.2016**

Sh. Virender Dagar and others

..Petitioners

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see 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. Kunal Dawar, Advocate
for the petitioners.

Mr. Baljinder Singh Virk, DAG, Haryana
for respondent No.1 – State.

None for respondent No.2.

Daya Chaudhary, J.

Petitioners, namely, Virender Dagar, Rajender Dagar, Kamla Devi and Pushpender are accused in FIR No.445 dated 22.10.2008 registered under Sections 406, 498-A and 506 of Indian Penal Code (for short 'IPC') at Police Station Sector 29, DLF, District Gurgaon.

The marriage of petitioner No.1 was solemnized with respondent No.2 on 24.11.2007. No issue was born out of said wedlock. On account of matrimonial dispute between petitioner No.1 and respondent No.2, the aforesaid FIR was registered by respondent

No.2 against the petitioners. During pendency of the proceedings, a compromise was arrived at between the parties and on the basis of said compromise, a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') for dissolution of marriage with mutual consent was also filed before District Judge Family Court, Gurgaon on 29.05.2012 wherein both the parties appeared before the Court and their first motion statement was recorded. As per terms and conditions of the compromise, an amount of ₹7,50,000/- was decided to be paid to respondent No.2 towards maintenance in lump-sum for past, present and future. Out of total settled amount, an amount of ₹50,000/- was paid at the time of recording of first motion statement and the balance amount was to be paid at the time of recording of second motion statement.

Learned counsel for the petitioners submits that the amount as settled between the parties has been paid to respondent No.2 and the petition filed under Section 13-B of the Act has also been allowed. The cases pending between the parties have also been withdrawn. Complainant-respondent No.2 has no objection in quashing of the FIR and other proceedings as per compromise arrived at between the parties. Learned counsel for the petitioners has also brought to the notice of this Court that as per settlement arrived at between the parties, one more FIR bearing No.280, dated 27.08.2008, registered under Sections 323, 506 IPC at Police Station Palamvihar, District Gurgaon has also been quashed by this Court

vide order dated 22.01.2013 passed in Criminal Misc. No. M-20563 of 2012. The petitioner in that case was sister-in-law of the complainant.

None has appeared on behalf of complainant-respondent No.2 as she was not served and thereafter, a publication was published in local newspaper but inspite of that also, there is no representation on her behalf.

The statement of the complainant as well as petitioner No.1 was recorded in the petition filed under Section 13-B of the Act and the same was allowed on 01.12.2012 on the basis of joint statement made by the parties. It has been mentioned in the order that there was no possibility of their living together and they have decided to dissolve their marriage by way of mutual consent. An amount of ₹7,50,000/- including past, present and future maintenance, was received by the wife and nothing remains to be paid.

The dispute between the parties is matrimonial in nature and the same has been settled by way of compromise. The petition filed under Section 13-B of the Act has been allowed. All cases pending between the parties have been withdrawn. Complainant-respondent No.2 has no objection in quashing of the FIR and other proceedings. Moreover, no purpose would be served in case proceedings are continued in future as it would amount to wastage of precious time of the Court.

It has been held by Five Judges' Bench of our own High Court in **Kulwinder Singh and others vs. State of Punjab and**

others, 2007(3) RCR (Criminal) 1052 that this Court has wide power to quash the criminal proceedings even in non-compoundable offences, notwithstanding the bar under Section 320 of the Criminal Procedure Code in order to prevent abuse of the process of law or to secure the ends of justice.

Accordingly, the present petition is allowed and the impugned criminal proceedings arising out of FIR No. 445 dated 22.10.2008 registered under Sections 406, 498-A and 506 IPC at Police Station Sector 29, DLF, District Gurgaon as well as all subsequent proceedings arising therefrom qua petitioners, namely, Virender Dagar, Rajender Dagar, Kamla Devi and Pushpender, are hereby quashed.

23.04.2016
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(DAYA CHAUDHARY)
JUDGE