

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

**CRM No. M-8393 of 2016
Date of decision: 12.12.2016**

Mr. Sham Sunder Arora and another

...Petitioners

Versus

State of U.T. Chandigarh and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Pinaki Addy, Advocate,
for the petitioners.

Mr. Sukant Gupta, Addl. P.P.,
for respondent No.1-U.T., Chandigarh.

Mr. Manish Jain, Advocate,
for respondent No.2-complainant.

Ritu Bahri, J.

Quashing of Criminal Complaint No.2376 of 2013 arising out of FIR No.169 dated 17.04.2009, under Sections 498-A, 406 read with Section 34 IPC, registered at Police Station, Sector 34, Chandigarh (Annexure P-1) and proclamation proceedings initiated against petitioner No.1 vide order dated 07.10.2014 (Annexure P-2) is sought on the basis of compromise dated 13.01.2016.

Marriage of petitioner No.1-Sham Sunder Arora was solemnized with respondent No.2-Rohini Arora on 03.04.1996 under the Special Marriage Act, 1954 in the presence of the Marriage Officer at Bombay. After marriage, they lived together as husband and wife from

April, 1996 to 2006 at Mumbai and Chennai within India and in Singapore outside India from January, 2006 to 22.06.2008. On account of temperamental difference, they could not stay together and ultimately, on 23.06.2008, started living separately. Thereafter, the present FIR (Annexure P-1) was got registered on 17.04.2009 at the instance of respondent No.2.

After investigation, challan was presented in the Court of Judicial Magistrate Ist Class, Chandigarh. Since petitioner did not appear before the Court, proclamation proceedings were initiated against him on 07.10.2014. Thereafter, a compromise dated 13.01.2016 (Annexure P-3) was effected between the parties.

Vide order dated 14.03.2016, notice of motion was issued in this case, whereupon Mr. Varun Sharma, Advocate accepted notice on behalf of respondent No.2. P.O. Proceedings were kept in abeyance. Vide order dated 19.07.2016, proceedings before the trial Court were stayed.

Vide order dated 27.10.2016 passed by this Court, parties were directed to get their statements recorded before the trial Court. But, the parties have failed to get their statements recorded.

During the pendency of this petition, petitioners have filed CRM-34118-2016 seeking liberty to deposit the remaining amount of Rs.1 crore as per compromise (Annexure P-3). In this application, it is stated that a divorce petition under Section 13-B of the Hindu Marriage Act was filed before the District Judge, Family Court, Gurgaon on 04.04.2016. After recording of joint statement of petitioner No.1 and respondent No.2 in first motion, the petitioner No.1 has complied with all the conditions of the compromise (Annexure P-3).

Learned counsel for respondent No.2 has informed that

on 30.11.2016, a statement was made by respondent No.2 before the District Judge, Family Court, Gurgaon that she was not willing to make the statement on second motion because some more jewellery and silver has not been returned by petitioner No.1. This aspect of jewellery and silver was not included in the settlement deed dated 13.01.2016. In view of the statement made by respondent No.2, petitioner under Section 13-B of the Hindu Marriage Act was dismissed vide order dated 30.11.2016.

Today, the parties are present in Court. Learned counsel for respondent No.2 states that steps have been taken to comply with the compromise deed, except jewellery and some silver articles.

A perusal of the aforesaid compromise deed shows that as per sub clause IV of para No.7, petitioner No.1 had to return the jewellery items and silver articles to respondent No.2 as shown in Schedule I. Further, as per sub clause V of Para No.7, petitioner No.1 had to pay Rs.1,20,00,000/- to respondent No.2. Thereafter, Rohini Arora-respondent No.2 has given an affidavit dated 23.02.2016 (Annexure P-4), stating that she has accepted Rs.20,00,000/- as per Para No. 7 (V) of the compromise and only a sum of Rs.1,00,00,000/- is due. She has further given an affidavit dated 04.04.2016 to the effect that as per Schedule I of the compromise dated 13.01.2016, she has received all the jewellery and silver articles.

At this stage, complainant-respondent No.2 states that some jewellery, which was lying in the locker in Standard Chartered Bank, Chennai, has not been returned to her.

Petitioner No.1 has handed over a demand draft bearing No.127357 dated 28.11.2016 for a sum of Rs.1,00,00,000/- to complainant-respondent No.2 in Court today, which has been accepted by her. Hence, all

the conditions of the compromise dated 13.01.2016 (Annexure P-3) have been complied with.

Rohini Arora-respondent No.2 (complainant) has given her affidavit dated 12.12.2016 in Court. Same is taken on record. It has been stated in this affidavit that respondent No.2 have received the jewellery and silver items, barring some items of jewellery and silver items, in terms of compromise dated 13.01.2016 effected between her and petitioner No.1. She has also received a draft No.127357 dated 28.11.2016 drawn on Standard Chartered Bank, Mumbai in the sum of Rs.1.00 crores from petitioner No.1 in Court today. She has undertaken to withdraw the civil/criminal cases filed by her against the petitioner. She would also appear before the District Judge, Gurgaon to record the second motion statement in the petition filed under Section 13-B of the Hindu Marriage Act.

It is not the case of the complainant that the compromise dated 13.01.2016 (Annexure P-3) was on account of any pressure or coercion. Moreover, jewellery items and silver articles as per Schedule I has not been delivered to her. Once, the parties had taken a conscious decision to enter into a compromise and all the conditions have been complied with, it would be just to accept the compromise and quash the proceedings thereafter. In these circumstances, this court is satisfied that the parties have compromised the matter and the aforesaid compromise is valid and genuine one.

Mr. Manish Jain, learned counsel for respondent No.2 states that all the proceedings pending between the parties, as detailed in Para No.5 of the compromise dated 13.01.2016 (Annexure P-3) shall be

withdrawn by complainant-respondent No.2 before recording of statements of second motion in the petition filed under Section 13-B of the Hindu Marriage Act. In this regard, a direction is given that the learned Courts below will not obstruct in withdrawing the aforesaid proceedings.

Consequently, in view of the judgment of the Hon'ble Supreme Court in the case of **Madan Mohan Abbot vs. State of Punjab 2008(2) RCR (Criminal) 429**, the law laid down by the Full Bench of this Court in the case of **Kulwinder Singh and Ors. vs. State of Punjab and another 2007(3) RCR (Crl.) 1052**, this Court is of the view that no useful purpose would be served in prolonging the litigation.

Accordingly, Criminal Complaint No.2376 of 2013 arising out of FIR No.169 dated 17.04.2009, under Sections 498-A, 406 read with Section 34 IPC, registered at Police Station, Sector 34, Chandigarh (Annexure P-1) and proclamation proceedings initiated against petitioner No.1 vide order dated 07.10.2014 (Annexure P-2) are quashed with all consequential proceedings arising therefrom qua the petitioners. Parties are directed to appear before the District Judge, Family Court, Gurgaon on 10.01.2017 for reviving the petition under Section 13-B of the Hindu Marriage Act (which was dismissed vide order dated 30.11.2016) and recording their second motion statements.

The petition stands disposed of accordingly.

12.12.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No