

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

Crl. Misc. M 17310 of 2016 (O&M)
Date of decision: 16.8.2017

Digambari Devi and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sham Lal Bhalla, Advocate
for the petitioner.

Mr. M.S. Nagra, Assistant Advocate General, Punjab.

Mr. Manpreet Ghuman, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 26 dated 23.12.2011 (Annexure P/1) registered under Sections 406 and 498-A IPC at Police Station Women Cell, District Ludhiana, and all subsequent proceedings arising therefrom, in view of the compromise dated 28.4.2016 (Annexure P/2) with a further prayer to quash the order dated 12.9.2012, whereby petitioner No.3 was declared as proclaimed offender.

The marriage was solemnized between the complainant Deepika Sharma and petitioner No. 1 on 7.10.2005 and out of this wedlock a girl was born. However, on account of matrimonial dispute, the complainant

was thrown out of her matrimonial home on 6.10.2008. The husband i.e. petitioner No.3 had left for England on 7.9.2006. On account of the dispute the aforesaid FIR came to be registered.

In the proceedings in the FIR, petitioner No. 3 was declared proclaimed offender on 12.9.2012 by the Judicial Magistrate 1st Class, Ludhiana. During the pendency of the proceedings, with the intervention of respectable persons, the matrimonial dispute has been amicably settled between the parties and they have entered into a compromise and in terms of the compromise, a petition under Section 13-B of the Hindu Marriage Act was filed in which a total sum of Rs. 12.5 lakh has been received by the complainant in full and final settlement on account of past, present and future maintenance as well as on account of permanent alimony, *Istri dhan* and maintenance of the minor daughter. A decree of divorce has been granted on 3.11.2016. The respondent/complainant No.2 has no objection in case the FIR is quashed.

I have heard learned counsel for the parties and have also gone through the record.

In a decision, based on compromise, none of the parties is a loser. Rather, a compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their matrimonial dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of

ultimate conviction are bleak.

Consequently, keeping in view the fact that matrimonial dispute has been amicably settled and in view of the law laid by the Hon'ble Supreme Court in Gian Singh Versus State of Punjab and another, 2012 (4) RCR (Cr.) 543, it would be in the interest of justice to quash the aforesaid FIR on the basis of the compromise. With the balance payment of Rs. 4.5 lakh by way of demand draft No. 040769 dated 1.8.2017 in Court today, the entire amount, as agreed between the parties, stand paid.

However, learned counsel for the State raises an objection that petitioner No.3 stand declared as proclaimed offender and, therefore, the proceedings qua him ought not be quashed.

This argument is not sustainable on account of the fact that petitioner No.3 is shown to have left India on 7.9.2006 and has residence permit of United Kingdom and as such he was not in India when the FIR was lodged on 23.11.2011. Once he was a resident of England, there is non-compliance of Section 82 of the Cr.P.C. in so far there is nothing available on record to show that efforts were made to serve through the Embassy.

For the reasons afore-stated, this petition is allowed and FIR No. 26 dated 23.12.2011 (Annexure P/1) registered under Sections 406 and 498-A IPC at Police Station Women Cell, District Ludhiana, and all subsequent proceedings arising therefrom are quashed and also order dated 12.9.2012, whereby petitioner No.3 was declared as proclaimed offender is set aside.

The petition stands disposed of.

16.8.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No