

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

1. CRM-M-26132-2017

Ranjit Kaur

...Petitioner

Versus

State of Punjab & another

...Respondents

2. CRM-M-37448-2017

Gagandeep Singh & another

...Petitioners

Versus

State of Punjab & another

...Respondents

Date of decision: 06.12.2017

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sahil Goel, Advocate for
Mr. Saurabh Arora, Advocate
for the petitioners in both cases.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. Sukhdeep Singh, Advocate for
Mr. A. D. S. Sukhija, Advocate
for respondent No. 2/complainant in both cases.

JAISHREE THAKUR, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 482 of the Code
of Criminal Procedure seeking quashing of FIR No. 31 dated 23.05.2015,
registered under Sections 498-A and 406 of the Indian Penal Code at

Women Police Station, Patiala and all subsequent proceedings arising therefrom in view of the compromise dated 06.09.2017 (Annexure P-2) entered into between the parties.

The marriage of respondent No. 2 was solemnized on 17.04.2011 with petitioner No. 1 Gagandeep Singh. However, due to temperamental differences between the husband and wife, matrimonial dispute arose and the aforesaid FIR has been registered on the statement of complainant/respondent No. 2 Harmeet Kaur.

During the pendency of the petitions, the matter was referred to mediation by an order dated 31.08.2017 passed in CRM-M-26132-2017. The matter was taken up by the Mediator and both, Ranjit Kaur and her son Gagandeep Singh, appeared in the said proceedings along with complainant Harmeet Kaur. The mediation process remains successful and a settlement agreement dated 06.09.2017 came into existence. As per the terms of the said agreement, the parties i.e. Gagandeep Singh and Harmeet Kaur decided to part ways by getting divorce on the basis of the mutual consent. A sum of Rs. 14,50,000/- was agreed to be paid to the complainant as full and final settlement towards maintenance/alimony etc. for her and her minor child. In terms of the said settlement, as on date, a sum of Rs. 10,00,000/- by way of demand draft has already been paid to the complainant. Rs. 7,00,000/- were paid on an earlier occasion and Rs. 3,00,000/- have been paid today by way of two demand drafts bearing Nos. 000262 and 000263. Copies of the same have been retained on the case file. The balance amount is to be paid on a statement being recorded on the second motion of the petition filed under Section 13-B of the Hindu Marriage Act.

The petitioners herein prays for quashing of the FIR on the basis of the compromise that has been arrived at between the parties. Counsel for respondent No. 2/complainant has no objection in case the said FIR is quashed, however, it is prayed that the terms of the compromise must be adhered to by the petitioners.

By an order dated 09.10.2017 passed in CRM-M-37448-2017, the parties were directed to appear before the Illaqa Magistrate for getting their statements recorded in support of the compromise. In pursuance of the direction, a report has been received from JMIC at Patiala, stating that the compromise arrived at between the parties is without any pressure or coercion from any one and the same appears to be genuine one.

Mr. Davinder Bir Singh, DAG, Punjab, on instructions from the Investigating Officer, admits to the factum of compromise and submits that in case the parties have indeed settled their dispute, they would have no objection to the quashing of the FIR, in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the rival parties and 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 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 the dispute has been amicably settled and in view of the law laid down by the Hon'ble Supreme Court in *Narinder Singh & others vs. State of Punjab & another, (2014) 6 SCC 466*, these petitions are allowed and FIR No. 31 dated 23.05.2015, registered under Sections 498-A and 406 of the Indian Penal Code at Women Police Station, Patiala and all subsequent proceedings arising out of the same are quashed qua the petitioners herein.

However, in case the terms of the compromise are not adhered to, respondent No. 2/complainant would be at liberty to revive all proceedings against the petitioners herein.

At this stage, counsel for the petitioners submits that the petitioner-husband is ready and willing to make the balance payment of Rs. 4,50,000/- in terms of the settlement agreement, however, prays for waiving off the statutory period of six months as stipulated under Section 13-B(2) of the Hindu Marriage Act.

The Hon'ble Supreme Court in *Amardeep Singh vs. Harveen Kaur, 2017 SCC Online SC 1073* has allowed Courts to waive off the six months' period as stipulated under Section 13-B(2) of the Hindu Marriage Act after considering the following:

- i) the statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year under Section 13-B(1) of separation of parties is already over before the first motion itself;
- ii) all efforts for mediation/conciliation including efforts in terms of Order XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in

- that direction by any further efforts;
- iii)the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;
- iv)the waiting period will only prolong their agony.

In view of the fact that the parties have been litigating for over three years, this Court is of the opinion that the period of six months stipulated under Section 13-B(2) can be waived off by the Court below upon an appropriate application being moved by the parties in light of the judgment rendered by the Apex Court in *Amardeep Singh's case (supra)*. Parties are directed to appear before the Sessions Court, Patiala on 15.12.2017 to make their statements in the second motion petition under Section 13-B of the Hindu Marriage Act and in case an application is moved by the parties seeking waiver of six months' period, the same shall be allowed.

A photocopy of this order be placed on the file of the other connected case.

06.12.2017
Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No