IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CR No.7279 of 2017 (O&M)

Deepak Garg ... Petitioner

Versus

Priya ... Respondent

2. CRM No.M-36386 of 2017

Deepak Garg and others ... Petitioners

Versus

Priya ... Respondent

3**. CRM No.M-36057 of 2017**

Deepak Garg and others ... Petitioners

Versus

State of Haryana and another ... Respondent

Date of Decision: 15.01.2018

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Karan Bhardwaj, Advocate,
for the petitioners.

Mr. Yogesh Putney, Standing counsel for Income Tax.

Mr. Vikas Mohan Gupta, Advocate,
for the respondent-Priya.

Mr. Harish Rathee, Sr. DAG, Haryana.

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<u>RAJIV NARAIN RAINA, J.(Oral)</u>

1. This order will dispose of CR No.7279 of 2017 titled *Deepak Garg v. Priya*, CRM No.M-36386 of 2017 titled *Deepak Garg and others v. Priay* & CRM No.M-36057 of 2017 titled *Deepak Garg and others v. State*

of Haryana and another.

2. These are two criminal cases and civil revision arising out of a matrimonial dispute.

3. Civil Revision was filed to exempt the period of six months for dissolving the marriage by mutual consent under Section 13-B of the Hindu Marriage Act, 1955. The Additional Family Court, Hisar dismissed the application expressing opinion that the dispute between the parties had not been finally settled since the quashing petition was pending before this Court in the criminal case in FIR No.488 of 2014 under Section 498-A IPC and the other under the other complaint No.908 of 2014 under the Domestic Violence Act ("Act") between Deepak Garg and Priya. When this revision came up for hearing on November 20, 2017 this Court issued notice to the Standing Counsel for the Income Tax to assist this Court in the matter from the income tax point of view on a complaint of Deepak Garg against his brother-in-law.

4. Mr. Yogesh Putney, Standing counsel for Income Tax department put in appearance on November 27, 2017 when the following order was passed:-

> *"Mr. Yogesh Putney, Advocate puts in appearance on behalf of the Income Tax Department and has handed over a letter dated 21.11.2017 issued by the office of the Income Tax Officer Ward-2, Hisar wherein in paragraph 2.4 it has been explained that the income tax officer being dissatisfied with the source explained of expenditure of Rs. 25,00,000/- incurred in the marriage and proceedings under Section 147 of the Income Tax Act 1961 against Gaurav Jain for the assessment year 2014-15 have been*

issued together with notice under Section 148 with prior approval of the competent authority. Reopened case is now pending before the Assessing Officer and is to be cleared by 31.12.2017 after which proceedings will be barred. In order to see an effective end of the proposed compromise between the parties in the matrimonial dispute, it appears better to await the result of the income tax proceedings.

The Income Tax Department would not supply the papers relating to the proceedings pending before the Assessing Officer to Sh. Deepak Garg the petitioner in the civil revision, even though the Central Information Commission has directed the Income Tax Department to supply the information sought by Sh. Deepak Garg. In other words, till further orders income tax department will not act on the directions of the Central Information Commission, New Delhi, in order to help in the process of compromise between the parties arising out of the proceedings under Section 13-B of the Hindu Marriage Act, 1956.

Photocopy of the letter dated 22.11.2017 produced by Mr. Putney is taken on record as Mark 'A'

List on 15.01.2018

A photocopy of the order be placed on the files of connected case."

5. The income tax proceedings have arisen out of complaint by the husband made against the brother of his wife Priya to the Income Tax Department for him to justify the expenditure at the wedding.

6. Mr. Putney submits that assessment order has been passed on November 30, 2017 under Section 143 (3)/147 of the Income Tax Act, 1961. The result of these tax assessment proceeding or its aftermath obviously have no direct concern in the matrimonial dispute and the connected criminal cases including the proceedings for grant of divorce by

mutual consent.

7. Presently, the prayer is for quashing the FIR and proceedings under the Act since the parties have compromised their disputes and mutually decided that their marriage should be dissolved by a decree of the Court. No useful purpose will be served if the criminal cases are continued only for a broken marriage to subsist and it will be in the interest of both sides that these proceedings should be terminated by an order quashing the FIR as compromised and setting aside the proceedings under the Act. This is mutually agreed by the parties who are present in Court and have been heard personally that they agree to the settlement/arrangement arrived at before the mediator in the mediation cell.

8. While setting aside the criminal case and the case under the Act and the order impugned in the civil revision dated October 10, 2017 the petitioner and the respondent are granted divorce by mutual consent on the basis of settlement/agreement arrived at in mediation proceedings in this Court concluded favourably and amicably between the parties by the mediator on September 19, 2017.

9. It is recorded here that the mediator has enumerated a total of eight pending cases in para.3 of the settlement agreed to by both the parties to be withdrawn against each other. The litigation mentioned in para.3 will form part of this order and the Courts in which they are pending between the parties would terminate/withdraw to withdraw those proceedings immediately by the respective side.

10. The petitioner had submitted a draft in the sum of ₹3.5 lakh in

the name of the wife which was retained on judicial file in sealed cover for handing over to respondent-Priya when she appears in the quashing petitions. Since quashing petitions have been put up before this Court by orders of Hon'ble the Chief Justice for disposal together with the civil revision for decision of three cases, the same are closed. The envelope has been detached from the paper book. It is directed to be opened to see if the draft/cheque is valid. The demand draft in the name of Priya is handed over to her in Court with photocopy retained on record.

11. The petitioner-Deepak Garg furnishes an undertaking to this Court that he would not demand any document relating to the family of Priya from the Income Tax Authorities as it is no longer of any concern to the petitioner.

12. As a result of mutuality, the Civil revision and the two criminal cases are allowed. The FIR is quashed. The proceedings under the Act are closed.

13. The decree of divorce by dissolution of marriage be drawn by the Registry.

(RAJIV NARAIN RAINA)
JUDGE

15.01.2018
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Whether speaking/reasoned Yes

Whether reportable No