

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

CRM-M-12975-2018 (O&M)

Date of decision: 23.04.2018

Sham Murari Mishra and others

...Petitioners

Versus

Union Territory of Chandigarh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D. V. Sharma, Senior Advocate with
Ms. Shivani Sharma, Advocate
for the petitioners.

Mr. J. S. Toor, Addl. P.P., U.T., Chandigarh.

Mr. P. S. Hundal, Senior Advocate with
Mr. Dinesh Trehan, Advocate
for respondents No. 2 and 3.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 37 dated 18.05.2017, registered under Sections 406, 498-A, 420 and 506 of the IPC at Women Police Station, Sector 17, Chandigarh on a complaint made by respondent No. 2 against the petitioners herein, on the basis of the compromise.

In brief, the facts of the case are that a marriage was solemnized between petitioner No. 3 Janesh Mishra son of Sh. Sham Murari Mishra and respondent No. 3 Savinalini Vinayak daughter of Brij Mohan Vinayak, at Amritsar. Thereafter, the parties left for the United States of America and resided there. A matrimonial dispute arose between the parties which led to respondent No. 3 getting a restraint order against her husband Janesh Mishra, petitioner No. 3 herein. On account of differences that arose

between the parties, petitioner No. 3 filed a case for dissolution of marriage by a decree of divorce in which respondent No. 3 was duly served. However, respondent No. 3 came back to India and was not in a position to contest the said divorce proceedings which ultimately led to the dissolution of the marriage by an *ex-parte* decree of divorce dated 07.07.2015 which became effective from 26.09.2015. On return to India, respondent No. 3 made a complaint to the Commissioner of Police, Amritsar for registration of the FIR under Sections 406 and 498-A along with other relevant sections and also filed a Criminal Complaint bearing No. 120 dated 10.03.2017 under Section 12 of the Domestic Violence Act against the petitioners herein. Apart from that, a Civil Suit No. 3431 of 2017 was also filed seeking to restrain petitioner No. 1 from alienating his personal properties apart from filing a suit for setting aside the decree of divorce that had been allowed in USA. Since the matter was being investigated in the FIR that had been registered under Sections 406, 498-A, 420 and 506 of the IPC, petitioner Nos. 1 and 2 approached this Court by way of **CRM-M-6882-2018** titled as ***“Sham Murari Mishra and another vs. Union Territory of Chandigarh and another”*** seeking grant of anticipatory bail. Appearance was caused on behalf of complainant Brij Mohan Vinayak, father of respondent No. 3, in the said proceedings. A suggestion was made by this Court to the parties concerned to try and resolve their disputes amicably, while taking note of the fact that petitioner No. 3 had solemnized a marriage in the meantime.

The parties along with the able assistance of their respective Senior Counsels have reached an amicable solution. In terms of the settlement that has been arrived at between the parties (Annexure P-2), it

has been resolved that all the cases filed by the parties against each other would be withdrawn and respondent No. 2 would have no hesitation in giving the statement that proceedings under the present FIR should be quashed. Apart from this, it has also been decided that the petitioners would pay a sum of ₹50,00,000/- (Rupees Fifty Lakh) to respondent No. 3 Savinalini Vinayak towards her permanent alimony, maintenance etc. Respondent No. 3 is to accept the decree of divorce dated 07.07.2015 passed by the Superior Court of California, County of Los Angeles, USA and the fact that her relationship with petitioner No. 3 as of husband-wife has been severed. It has also been agreed that the parties would be bound by the terms of the compromise entered into between them.

This Court is informed that in terms of the compromise arrived at, all cases stand withdrawn and the sum of ₹50,00,000/- (Rupees Fifty Lakh), which had been kept in the custody of learned Senior Counsel, appearing on behalf of the complainant, would be handed over to respondent No. 3.

Mr. A. S. Sandhu, Addl. A. G., Punjab, on instructions from the Investigating Officer, submits that in case the parties have indeed settled their dispute, the State 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*, this petition is allowed and FIR No. 37 dated 18.05.2017, registered under Sections 406, 498-A, 420 and 506 of the IPC at Women Police Station, Sector 17, Chandigarh and all subsequent proceedings arising out of the same are quashed qua the petitioners herein. However, the parties would be bound by the terms of the said compromise.

The petition stands disposed of.

Needless to say that once the dispute has been settled and the FIR stood quashed, the look out notice also stands withdrawn.

23.04.2018

Waseem Ansari

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No