

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-11517-2018 (O&M)
Date of Decision:- 15.10.2019

Sarabjit Kaur ... Petitioner

Versus

Kultar Singh ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jagjot Singh Lalli, Advocate, for the petitioner.

Ms. Rashmi Attri, AAG, Punjab,
assisted by SI Devinder Singh.

Mr. Kirpal Singh Thakur, Advocate,
for the respondent.

GURVINDER SINGH GILL, J. (Oral)

1. Petitioner-Sarabjit Kaur has approached this Court seeking setting aside order dated 4.1.2017 (Annexure P-3) vide which learned Chief Judicial Magistrate, Ludhiana, has ordered for filing a complaint against petitioner-Sarabjit Kaur for offences under Sections 193 and 195 of IPC.

2. The matter in fact arises out of matrimonial discord between the petitioner and her husband-Kultar Singh and on account of which one FIR No. 145, dated 22.6.2011 was registered at Police Station Focal Point, Ludhiana, for offences under Sections 406, 498-A, 323 IPC, at the instance of the petitioner against her husband-Kultar Singh. Said Kultar Singh was tried by learned Chief Judicial Magistrate, Ludhiana, and was acquitted vide judgment dated 20.10.2014 (Annexure P-1). It was thereafter that an application under Section 340 Cr.P.C. (Annexure P-2) was filed by respondent-husband Kultar Singh seeking initiation of proceedings against the petitioner on the ground that false evidence had been furnished by the petitioner. Learned Chief Judicial Magistrate, Ludhiana vide impugned order dated 4.1.2017 (Annexure P-3) directed that a complaint be lodged against the present petitioner, which has been challenged in the present petition.
3. On the last date of hearing i.e. on 28.8.2019, the petitioner was present in person and submitted that she was willing to get her marriage dissolved by way of a decree of divorce by mutual consent provided the present petition is accepted.
4. Learned counsel for the respondent expressed that he had no objection for the same and that he was also willing to get the marriage dissolved by way of a decree of divorce by mutual consent. The operative part of the said order dated 28.8.2019 read as follows:

“At the very outset, learned proxy counsel for petitioner accompanied by petitioner who is present in

person has submitted that the petitioner is willing to get the marriage dissolved by way of a decree of divorce by mutual consent and would cooperate with the proceedings in every manner, in case any fresh petition under Section 13-B of Hindu Marriage Act is filed provided the present petition seeking quashing of Section 340 Cr.P.C. is accepted.

Learned counsel for the respondent has submitted that he has no objection for acceptance of this petition subject to the condition that the petitioner is ready and willing for getting the marriage dissolved by decree of divorce by mutual consent.

In view of the aforesaid statement made by petitioner's counsel, who is accompanied by the petitioner, the matter is adjourned to **15.10.2019**.

The parties would be at liberty to move a fresh petition under Section 13-B of Hindu Marriage Act seeking dissolution of marriage by decree of divorce by mutual consent. Since it has been informed that the litigation has been pending since the last about 7-8 years and that in fact even on earlier occasion a petition under Section 13-B of Hindu Marriage Act has been filed, the parties would be at liberty to move application under Section 13-B(2) of Hindu Marriage Act for waiving of the mandatory cooling off period which shall be considered sympathetically by the Trial Court keeping in view the checkered history of the case.”

5. Pursuant to the aforesaid order, the parties filed a petition under Section 13-B of Hindu Marriage Act and vide judgment and decree dated 10.9.2019, their marriage stands dissolved by way of divorce by mutual consent. A copy of the statements of the parties recorded during the proceedings of Section 13-B of Hindu Marriage Act as

well as a copy of judgment and decree passed therein have been furnished to the Court today by learned counsel for the petitioner. The same are taken on record.

6. Since, the matter has arisen out of matrimonial discord and the parties had mutually decided to resolve their issues by getting their marriage dissolved and which has been got dissolved by decree of divorce by mutual consent, this Court is of the opinion that a lenient view can be taken in the matter so as to completely relieve both the parties of their tensions and stresses which they have been undergoing pursuant to matrimonial incompatibility and discord. Forcing the petitioner to face prosecution in respect of the complaint initiated on the basis of an application filed under Section 340 Cr.P.C., which was filed by the respondent and who now does not have any objection in case the said proceedings are dropped, would not serve any fruitful cause. Rather the compromise, on the basis of which marriage has been got dissolved, is likely to remove some miseries.
7. In view the aforestated position especially the fact that the matrimonial discord is being resolved, the petition is accepted and impugned order dated 4.1.2017 (Annexure P-3) and consequential proceedings are hereby set aside.

October 15, 2019

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No