

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

151

CRM-M-12692-2019

Date of Decision : April 30, 2019

ARUN SHARMA AND ORS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Vipin Gogia, Advocate
for the petitioners.

Mr. Ashish Yadav, Addl. Advocate General, Haryana.

Mr. Manish Prabhakar, Advocate
for respondent No.2.

Mr. V.K.Kaushal, Advocate
for respondents No.3 and 4.

NIRMALJIT KAUR, J. (Oral)

The present petition under Section 482 of the Code of Criminal Procedure is filed for quashing of the FIR No. 144 dated 2.4.2013 under Sections 323, 498-A, 506 IPC, registered at Police Station Sector-5, Panchkula.

The said petition under Section 482 of the Code of Criminal Procedure for quashing of the above mentioned FIR has been filed on the basis of a compromise arrived at between the parties. The FIR was registered at the instance of complainant-respondent No.2-Shruti Dhingra @ Shruti Sharma, who is the wife of petitioner No.1. The said FIR is an outcome of matrimonial discord between petitioner No.1-husband and respondent No.2-wife. The contempt petition No.2287 of 2015 came to

be filed by Shruti Dhingra @ Shruti Sharma-respondent No.2. During the pendency of the said contempt petition, a compromise was effected between the parties. Accordingly, the said contempt petition was disposed of by this Court on 18.12.2018 with the following directions:-

“(1) Petitioner-Shruti Sharma shall also move an appropriate application allowing the petition pending for setting aside the order dated 20.11.2013 passed by CJM, Panchkula, titled as ***Shruti Sharma vs. Arun Sharma and others***, in view of the settlement arrived at between the parties. On moving such application by the petitioner, order passed under the Domestic Violence Act shall be set aside subject to payment of Rs.65 lakhs by way of demand draft, in favour of petitioner-Shruti Sharma, which shall be handed over to the petitioner simultaneously in the Court.

(2) An appropriate application/petition for quashing of FIR bearing No. 144 dated 02.04.2013 under Sections 323/498-A/406 and 506 IPC registered at Police Station Sector 5, Panchkula or an appropriate application for acceptance of cancellation report, shall also be moved by the parties within one month of the setting aside the order dated 20.11.2013 passed under the Domestic Violence Act. The second installment of Rs.60 lakhs shall be paid by respondent No.1 or respondent No2, as the case may be, at the time of quashing of FIR bearing No. 144 dated 02.04.2013 under Sections 323/498-A/406 and 506 IPC registered at Police Station Sector 5, Panchkula. It is, however, clarified that quashing of FIR/acceptance of cancellation report will be subject to handing over of the demand draft of Rs.60 lacs, to the petitioner.

(3) Both the parties shall move an appropriate application for converting the divorce petition filed under

Section 13 of the Hindu Marriage Act into Section 13-B of the Hindu Marriage Act. Thereafter, both the parties shall appear before the concerned Court for first motion hearing on the date so fixed by the concerned Court.

Respondent No.1 or respondent No.2, as the case may be, shall hand over the demand draft of Rs.60 lakhs to the petitioner on the first motion hearing of the divorce petitioner under Section 13-B of the Hindu Marriage Act.

(4) Rs.40 lakhs, which is deposited with the Registrar (General) of this Court, shall be released immediately to the petitioner on an order of finalization of the divorce petition under Section 13-B of the Hindu Marriage Act, being produced before the Registrar (General) of this Court.

(5) Both the parties shall withdraw all the case filed/registered against each other.”

Thereafter, in pursuance to the said compromise, an application for setting aside the judgment and order dated 20.11.2013 passed by the CJM, Panchkula under Section 12 of the Domestic Violence Act was filed. The same was set-aside by the CJM, Panchkula vide order dated 31.1.2019 and respondent No.2 accordingly received the demand draft of Rs.65 lacs as per the said compromise.

Accordingly, the quashing petition has also been moved in pursuance to the same compromise. When the matter was listed on 12.4.2019, the parties were present in person. Learned counsel for respondent No.2 requested for time to file affidavit in terms of the compromise entered between the parties. Today, the parties are, once again, present in the Court with their respective counsel. An affidavit of

respondent No.2-Shruti Dhingra @ Shruti Sharma wife of Arun Sharma and daughter of Mohan Lal Dhingra has been filed stating therein in para No.7 stated that she has no objection if the FIR mentioned above is quashed. It is also stated in the said affidavit that respondent No.2 has no objection if the application filed by her before the Office of the Ministry of External Affairs and the Regional Passport Office, Chandigarh are treated as withdrawn or cancelled and nor does she have objection if the Regional Passport Office, Chandigarh restores/renews the Indian Passport of petitioner No.1-Arun Sharma and same is dispatched to his address, with the further undertaking in the affidavit that respondent No.2 has no objection if the look out notice, if any, issued against petitioner No.1, namely, Arun Sharma is also withdrawn and cancelled. Respondent No.2 also has no objection if the deportation proceedings initiated against petitioner No.1-Arun Sharma are dropped or set-aside in view of the compromise having been arrived at between the parties.

Respondent No.2, who is present in the Court admits that the affidavit dated 17.4.2019 placed on record has been duly signed by her. It is further stated by learned counsel for the respondents that the respondent has no objection if the said FIR is quashed in terms of the said compromise.

In view of the order passed by this Court on 18.12.2018 P-2 on the basis of the compromise as well as taking into account the affidavit dated 17.4.2019 filed before this Court as also the stand of the learned counsel for the respondents as well as respondent No.2 herself before this Court the compromise arrived at between the parties is indeed

genuine and the same has been arrived at between the parties without any pressure. Moreover, the petitioners in pursuance to the said compromise have also brought two demand drafts of Rs.28 lacs and Rs.32 lacs, copies of which are being retained on the record of this Court. The said demand drafts are handed over to respondent No.2, who is present in the Court. She has duly received the said demand drafts. Hence, there is no inhibition before this Court to quash the FIR especially taking into account that the said FIR arises out of a matrimonial dispute.

In view of the above (a) FIR No. 144 dated 2.4.2013 under Sections 323, 498-A, 506 IPC, registered at Police Station Sector-5, Panchkula as well as all the proceedings arising out of the FIR stand quashed.

Learned counsel for respondent No.3 has also stated before this Court that in view of the FIR having been quashed, they shall recall the deportation proceedings initiated against petitioner No.1 as well as the look notice, if any.

(b) It is, therefore, directed that the application filed by respondent No.2-Shruti Dhingra @ Shruti Sharma before the office of Ministry of External Affairs and the deportation proceedings initiated against petitioner No.1, namely, Arun Sharma shall stand withdrawn and no action shall be taken in pursuance to the said application or the deportation proceedings.

(c) The Regional Passport Officer, Chandigarh shall also restore the new Indian Passport to Arun Sharma in terms of the compromise and the affidavit filed before this Court.

(d) Both the parties shall remain bound by the compromise arrived between the parties.

It is, however, clarified that in case the failure of petitioner No.1 to move an appropriate application under Section 13-B of the Hindu Marriage Act or the failure of petitioner No.1 to make appropriate statement before the concerned Court for the grant of divorce, the respondent No.2 will be at liberty to move an appropriate application before this Court for revival of the present Criminal Miscellaneous application and the learned counsel for the petitioners states that they will not raise any objection with respect that the same cannot be recalled as per law. Petitioner No.1 shall not raise the objection that the same is not permissible under the law. It is also clarified that respondent No.2 shall also cooperate in moving the appropriate application under Section 13-B of the Hindu Marriage Act.

Allowed in above terms.

(NIRMALJIT KAUR)
JUDGE

April 30, 2019
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No