

119.

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

**CRM-28283-2019 IN/AND
CRM-M-23181-2019 (O&M)**
Date of decision: 16.09.2019

ABHISHEK GAUR AND ORS

... Petitioners

versus

STATE OF HARYANA AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Krishan M. Vohra, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana,
for respondent No.1.

Mr. Rajiv Sharma, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

CRM-28283-2019

Prayer in this application filed under Section 482 Cr.P.C. is for
preponement of date of hearing.

Notice in the application.

At this stage, Mr. Rajiv Sharma, Advocate, appears for
respondent No.2-complainant and states that the complainant has no
objection in case the hearing of the present case, which is otherwise fixed for
18.02.2020, is preponed. Even otherwise, the matter has been compromised
between the parties.

Accordingly, on joint request of counsel for the parties, the hearing of the main petition is preponed and the case is taken on board today itself.

CRM stands disposed of.

CRM-M-23181-2019

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of F.I.R. No.368 dated 09.05.2015 registered under Sections 323, 498-A, 34 of IPC at Police Station Hisar Civil Lines, District Hisar and all subsequent proceedings arising therefrom on the basis of compromise/joint statement on first motion dated 12.04.2019 made by the parties before the learned Principal, District Judge, Family Court, Hisar.

This Court vide order dated 21.05.2019 had directed the parties to appear before the Illaqa Magistrate/trial Court to get their statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.

Pursuant to the aforesaid order, parties have appeared before learned Judicial Magistrate Ist Class, Hisar and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 20.07.2019 to the effect that the compromise has been effected between the parties voluntarily and without any pressure.

Counsel for the petitioners states that the matter has been compromised between the parties and in terms of compromise, divorce petition under Section 13-B of Hindu Marriage Act has already been filed and the case is fixed for 18.10.2019 for second motion. He refers to the statement of the parties dated 12.04.2019 (Annexure P-3) which is a joint

statement made by the parties before the learned Principal District Judge, Family Court, Hisar. The joint statement which has been signed by the parties and identified by the witnesses before the learned Principal District Judge, Family Court, Hisar, reads as under:-

“Our marriage was solemnized according to Hindu rites and ceremonies on 01.05.2014 at Hisar. From our wedlock, no child was born. There has not been any cohabitation since 19.10.2014. Now it has been resolved that we shall take divorce by way of mutual consent.

Everything has been settled between the parties in full and final settlement of Rs.4,50,000/- (Rs. Four Lakh and fifty thousand only) payable by petitioner no.2 to petitioner no.1 as permanent alimony. Out of which, a Demand draft bearing no.239205 dated 09.04.2019 amounting to Rs.2,25,000/- (Rs.Two Lakh and twenty five thousand only) has been handed over by petitioner no.2 to the petitioner no.1 and remaining amount of Rs.2,25,000/- (Rs. Two Lakh and twenty five thousand only) shall be paid by petitioner no.2 to petitioner no.1 at the time of second motion statement. In case, petitioner no.1 refuse to appear at the time of recording the statement of second motion then she will return the amount with interest and in case petitioner no.2 would reluctant to appear in the court then the amount will be forfeited. Both the parties will withdraw all the litigation pending between them.

No claim of future maintenance, alimony or any right in property would be raised by either of the parties. Our marriage may be dissolved by decree of divorce by way of mutual consent. The mutual consent has not been obtained by any force, fraud, undue influence, threat to anyone and this petition has not been presented in collusion with each other. The contents of petition under Section 13-B may be read as a statement of both the parties.”

Respondent No.2, who is father of Mamta (wife of Abhishek Gaur-petitioner No.1), has also made a statement before the learned Magistrate that petitioner No.1-Abhishek Gaur and the daughter of the complainant, namely, Mamta, have filed a joint petition under Section 13-B of Hindu Marriage Act before the Family Court at Hisar, which is now fixed for 18.10.2018 for second motion statement. He made his statement voluntarily. There is no objection in case the FIR in question is quashed qua the petitioners.

In view of the above, no useful purpose would be served to continue with the proceedings before the trial Court in the instant FIR.

Hon'ble Supreme Court in ***Gold Quest International Private Limited Versus State of Tamil Nadu and others-2014 (4) RCR (Criminal) 206*** has held that the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*** as also in the light of ***Gold Quest International Private Limited's case (supra)***, this petition is allowed and F.I.R. No.368 dated 09.05.2015 registered under Sections 323, 498-A, 34 of IPC at Police Station Hisar Civil Lines, District Hisar and all subsequent proceedings

arising therefrom are quashed qua the petitioners on the basis of compromise/joint statement on first motion dated 12.04.2019 made by the parties before the learned Principal, District Judge, Family Court, Hisar, however, that would be subject to payment of costs of Rs.10,000/- to be deposited with the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh, within one month from today.

(HARI PAL VERMA)
JUDGE

16.09.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No