

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

142

**CRM-M-15639-2021(O&M)
Date of decision: 08.04.2021**

SUNIL KUMAR

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vimal Kumar Gupta, Advocate
for the petitioner

ARUN KUMAR TYAGI, J (ORAL)

*(The case has been taken up for hearing through video
conferencing.)*

CRM-11127-2021

The petitioner has filed the present application seeking exemption from filing of certified and true typed copies of annexures as well as vernacular of FIR.

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing certified and true typed copies of annexures and vernacular of FIR.

CRM-M-15639-2021

Petitioner-Sunil Kumar has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 167 dated 31.12.2019 registered under Sections 498-A/354-D/354/323/406/506 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Women West, Gurugram, District Gurugram (from which Sections 354-D, 354, 406 and 34 of the IPC were deleted later on) along

with all consequential proceedings arising therefrom.

Respondent No.2-Varsha Sharma made complaint to the Superintendent of Police, Government Police Station, Gurugram alleging that her marriage was solemnized with Sunil Kumar (the petitioner) on 05.04.2017. Her husband Sunil Kumar, father in law Mahesh Kumar and mother in law Krishna Devi subjected her to cruelty and misappropriated her dowry articles entrusted to them as mentioned in the complaint. Her father in law Mahesh Kumar molested her and the above said accused persons also criminally intimidated her. The above said FIR was registered on the basis of the complaint. The Police investigated the case and on investigation found Mahesh Kumar, father in law and Krishna Devi, mother in law to be innocent. On completion of the investigation on finding the evidence to be sufficient against the petitioner, the police filed report under Section 173 (2) of the Cr. P.C. against the petitioner.

The petitioner has filed the present petition for quashing of the FIR on the grounds that respondent No.2 solemnized marriage with the petitioner on 05.04.2017 at Gurugram in accordance with Hindu Rites and Ceremonies but due to matrimonial differences and with the intervention of respectables and relatives, the petitioner and respondent No.2 agreed to get their marriage dissolved by decree of divorce with mutual consent under Section 13-B of the Hindu Marriage Act, 1955. Marriage between them was accordingly dissolved by decree of divorce dated 20.10.2020 passed by learned Additional Principle Judge, Family Court, Gurugram in HMA case No.122 of 2020 titled Sunil Kumar and Smt. Varsha Sharma. At the time of hearing on first motion before the learned Additional Principle Judge, Family Court, Gurugram, the petitioner and respondent No.2 made statement that they had settled all

disputes amicably without any pressure, undue influence and coercion with their free will/consent. At the time of hearing on second motion before learned Additional Principle Judge, Family Court, Gurugram, the petitioner and respondent No.2 made statement that they shall not file any type of litigation against each other in future and shall not interfere in whatsoever manner in the personal life of each other and they shall not claim any right in the property of each other which would be acquired by them in future in any manner including inheritance and shall remain bound by their statements made in the Court.

In view of dissolution of marriage of the parties by decree of divorce with mutual consent, the petitioner has filed the present petition for quashing of the above said FIR .

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Ranvir Singh Arya, Addl. A.G. Haryana has appeared and accepted notice on behalf of respondent No.1-State.

Mr.Arjun Dhingra, Advocate has appeared on behalf of respondent No.2 and filed his power of attorney through e mail, print out of which is taken on record.

Learned counsel for the petitioner has submitted that in view of dissolution of marriage between the petitioner and respondent No.2 by way of decree of divorce with mutual consent and compromise arrived at between them, the FIR in question along with all consequential proceedings arising therefrom may be quashed.

Learned State counsel has no objection to quashing of the FIR along with all consequential proceedings arising therefrom in view

of the compromise between the petitioner and respondent No.2.

Learned counsel for respondent No.2 has also conceded the factual position as to dissolution of marriage between the petitioner and respondent No.2 by way of decree of divorce with mutual consent and compromise between them regarding ending of all litigations between them and submitted that respondent No.2 has no objection to quashing of the FIR along with all consequential proceedings arising therefrom.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel for respondent No.2 and gone through the relevant record.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special

enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to ***Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482, State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255 and Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052.***

In the present case the parties have compromised and the marriage between the petitioner and respondent No.2 has also been dissolved by decree of divorce dated 20.10.2020 passed by the learned Additional Principal Judge (Family Court) with their mutual consent.

The offences involved in the present case are overwhelmingly and predominantly of private/civil character arising out of matrimonial dispute between them and do not have any social impact. The parties have resolved their entire dispute among themselves. Compromise was arrived at between the parties at the initial stage. The compromise will also contribute to peace and harmony in the society. In view of the facts and circumstances of the case, the possibility of conviction of the petitioner is remote and bleak. Continuation of this case will put the petitioner to great oppression and extreme injustice would be caused to the petitioner if the FIR and all consequential proceedings are not quashed.

Accordingly, the petition is allowed and FIR No. 167 dated 31.12.2019 registered under Sections 498-A/354-D/354/323/406/

506 of the IPC at Police Station Women West, Gurugram, District Gurugram (from which Sections 354-D, 354, 406 and 34 of the IPC were deleted later on) is quashed along with all consequential proceedings arising therefrom against the petitioner.

08.04.2021

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(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No