

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

222+122

CRM-M-36641-2021 (O & M)

Date of decision:15.12.2021

Virender and another

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ashok K. Sharma (Bhana), Advocate
for the petitioners.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Chand Ram Olla, Advocate for respondent No.2.

SUVIR SEHGAL J. (ORAL)

Heard through video conferencing.

CRM-42676-2021

Application is allowed as prayed for.

Judgment and decree dated 08.10.2021 passed under Section 13-B of the Hindu Marriage Act, 1955, dissolving the marriage, is taken on record as Annexure P-6.

Main Case

Instant petition has been filed under Section 482 of Cr.P.C. for quashing of FIR No.538 dated 30.09.2019 under Sections 120-B, 323, 34, 354-A, 406 and 498-A of IPC, 1860, registered at Police Station Meham, District Rohtak, Annexure P-1, as well as charge-sheet under Sections 498-A, 323, 406 and 34 IPC dated 25.03.2021, Annexure P-2, on the basis of compromise arrived at between the parties, which is reflected from affidavit dated 27.08.2021, Annexure P-3, executed by the complainant.

Counsel for the petitioners submits that petitioner No.2 is the mother-in-law and petitioner No.1 is the husband of the complainant/respondent No.2. He submits that the marriage of petitioner No.1 was solemnized with complainant/respondent No.2 on 18.04.2018 and there was no issue out of the wedlock. He submits that the parties could not adjust with each other due to temperamental differences and started living separately from 06.04.2019. He submits that the dispute between the parties has been settled as is reflected from the affidavit of the complainant, Annexure P-3, and by virtue of judgment and decree dated 08.10.2021, Annexure P-6, the marriage between the parties has been dissolved by a decree of divorce by mutual consent. He submits that a sum of Rs.2.50 lacs has been paid to the complainant/respondent No.2 as is apparent from a perusal of Para 05 of the judgment, Annexure P-6. Still further, he submits that the petitioners have not been declared as Proclaimed Offender.

Upon instructions from L/ASI Renu, State counsel submits that though the allegations were levelled against number of accused, but after investigation, challan was presented against both the petitioners under Sections 323, 406, 498-A, 34 IPC and Sections 354-A and 120-B IPC were deleted and the other accused were declared as innocent. She submits that the prosecution evidence, as per her instructions, is yet to start.

Counsel representing respondent No.2 has admitted the factum of compromise as well as the statement made by counsel for the petitioners.

Counsel for the parties have been heard.

Vide order dated 07.09.2021, this Court called for a report from the Trial Court/Illaq Magistrate regarding the genuineness of the compromise and also as to whether P.O. proceedings are pending against any of the parties. The parties were directed to appear before the Trial

Court/Illaq Magistrate to get their statements recorded in support of the compromise. Report has been received in compliance of the said order and the relevant extract thereof is reproduced hereunder:-

“In view of the statements suffered by the parties before the court, it appears that the parties of the abovesaid Petition CRM-M No.36641 of 2021 have amicably reached at compromise, out of their free will and consent, without being under any external fear or pressure. The compromise is also reduced in writing. Both the parties have been identified by their respective counsel. The other necessary informations, as directed to be submitted vide order dated 07.09.2021, are as follows:-

(i) Number of persons arrays as accused in FIR- five namely, Virender son of Dalbir, Santosh w/o Dalbir, Shankar son of Dalbir, Meenu w/o Shankar and Laxmi D/o Dalbir;

(ii) Number of persons against who (sic whom) final report has been filed:- Two accused namely Virender son of Dalbir and Santosh w/o Dalbir;

(iii) Number of person found innocent during investigation: Three persons namely Shankar son of Dalbir, Meenu w/o Shankar and Laxmi d/o Dalbir;

(iv) Whether any person is proclaimed offender- No;

(v) Whether the compromise is genuine, voluntary, and without any coercion or undue influence-Yes.

Hence, the compromise between them appears to be voluntary. The statements of the parties, in original, are enclosed herewith.”

Supreme Court in ***Gian Singh Versus State of Punjab and another***, 2012(4) RCR (Criminal) 543 has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. A Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another***, 2007(3) RCR (Criminal) 1052 and Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another***, 2013(4) RCR (Criminal) 102 has held that compounding of offence can be allowed even after conviction, during pendency of the

appeal and even in cases involving non-compoundable offences.

In *Ramgopal and another Versus The State of Madhya Pradesh 2021 SCC Online 834*, Supreme Court has held that limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C.

Considering the fact that the FIR is an outcome of a marital discord between the parties, which has been amicably settled and the marriage between the parties has been dissolved, this Court is of the opinion that the quashing of the FIR would enable the parties to lead a peaceful life.

Counsel for the parties are also ad idem that in view of the settlement between the parties, the present petition deserves to be accepted. Therefore, no purpose will be served in continuing with the criminal proceedings.

Accordingly, the petition is allowed. FIR No.538 dated 30.09.2019 under Sections 120-B, 323, 34, 354-A, 406 and 498-A of IPC, 1860, registered at Police Station Meham, District Rohtak, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

15.12.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No