

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

128+298

CRM-M-4518 of 2022 (O&M)
Date of decision:16.05.2022

Rakesh Kumar and another

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Namit Khurana, Advocate
for the petitioners.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Pradeep Chhoker, Advocate for
Mr. Baljeet Nain, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM No.17743 of 2022

Counsel for the applicant-petitioners submits that marriage between petitioner No.1 and complainant-respondent No.2 has been dissolved, vide judgment and decree dated 03.02.2022 passed under Section 13-B of Hindu Marriage Act, 1955 and the entire permanent alimony of Rs.2.00 lacs has been paid.

In view of the above, application is allowed.

Judgment and decree is taken on record as Annexure P-4.

CRM-M-4518 of 2022

Reply by way of an affidavit of Additional Superintendent of Police, Panipat has been filed on behalf of respondent No.1-Sate, which is

taken on record.

On 03.02.2022, this Court passed the following order:-

“Heard through video conferencing.

Prayer in this petition is for quashing of FIR No.09 dated 20.01.2020 under Sections 498-A, 323, 406, 34 and 506 of IPC, 1860, registered at Police Station Women Police Station, District Panipat, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise/mutual settlement dated 06.12.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is the mother-in-law of the complainant/respondent No.2. He submits that the marriage of petitioner No.1 was solemnized with respondent No.2 on 05.03.2018, but there is no child out of the wedlock. He submits that due to temperamental differences between the two, they have been staying separately since June, 2019, and a compromise, Annexure P-2, has been effected between them. By referring to the averments made in Para 04 of the petition, counsel submits that it was agreed that a sum of Rs.2 lacs will be paid by way of permanent alimony, out of which half the amount stands paid at the time of recording of first motion in a petition filed under Section 13-B of the Hindu Marriage Act, 1955, and the balance is to be paid today at the time of

recording of the second motion.

Notice of motion.

On asking of the Court, Ms. Deepshikha Chauhan, AAG, Haryana, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. As per her instructions received from L/ASI Santosh, they were 07 accused, out of which challan has been presented against two and both of them are before this Court in the present petition. Upon further instructions, she submits that charge has not been framed. Mr. Baljeet Nain, Advocate accepts notice on behalf of the complainant/respondent No.2 and has filed his Vakalatnama, which is taken on record. He has instructions to state that a mutual compromise has been entered into between the parties and part payment of permanent alimony has been received by the complainant/respondent No.2.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 04.03.2022 or any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements*

and whether any accused is absconding/P.O. In the case;

2. the name of the complainant and injured/aggrieved

and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. if the compromise is genuine, voluntary and out of free will of the parties.

5. whether any other criminal case is pending against the accused.

Report of Illaqa Magistrate/trial Court be awaited for 04.04.2022.”

Report has been received from the Trial Court pursuant to above reproduced order and its relevant extract is as under:-

“Point (1): Whether the accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/Proclaimed Offender in the case;

Report: Persons namely (i) Rakesh son of Jawahar Lal, (ii) Kashmiro Bai wife of Jawahar Lal, (iii) Jawahar Lal son of Sidhu Ram, (iv) Sonu son of Jawahar Lal, (v) Rani wife of Sonu, (vi) Monu son of Jawahar Lal, (vii) Kanta Rani wife of Monu had been arrayed as accused in FIR No.09 dated 20.01.2020.

During investigation five persons namely Jawahar Lal

son of Sidhu Ram, Sonu son of Jawahar Lal, Rani wife of Sonu, Monu son of Jawahar Lal, Kanta Rani wife of Monu were found innocent as per report of Section 173 Cr.P.C. (challan).

Challan under Section 173 Cr.P.C against accused Rakesh son of Jawahar Lal and Kashmiro Bai wife of Jawahar Lal was filed in the Court. Said accused Rakesh and Kashmiro Bai have appeared and suffered their statements in support of compromise Ex.C1 so effected between parties.

No accused is absconding/Proclaimed Offender in this case.

Point(2): Whether the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

Report: Persons namely Sangeeta wife of Rakesh is complainant and the only injured/aggrieved person in this case. No other person is injured/aggrieved in this case. Said Sangeeta has appeared and suffered her statement that she has entered into compromise with accused persons with her free will and without any pressure.

Point (3): The stage of trial/proceedings;

Report: The case is at the stage of supplying copy of challan to accused and fixed for 28.04.2022.

Point (4): If the compromise is genuine, voluntary and out of free will of the parties.

Report: Yes.

5. whether any other criminal case is pending against the accused.

Report: No.”

FIR (Annexure P-1) is a fallout of matrimonial dispute, which has been resolved and the marriage has been dissolved. In view of above backdrop, report of the Trial Court as well as judgments of Supreme Court in **B.S.Joshi and others Vs. State of Haryana and another (2003) 4 SCC 675, Narinder Singh and others Vs. State of Punjab and another (2014) 2 RCR (Criminal) 482 and Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322**, this Court is of the opinion that keeping the criminal proceedings alive would not serve any purpose and the same deserve to be set aside.

Accordingly, the petition is allowed. FIR No.09 dated 20.01.2020 under Sections 498-A, 323, 406, 34 and 506 of IPC, 1860, registered at Police Station Women, District Panipat, (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed qua the petitioners.

May 16, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>