

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4541-2022

Date of Decision: 11.05.2022

NAYAN JHAMBA

... PETITIONER

VS.

STATE OF HARYANA AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Rajan Gupta, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Nikhil Kapoor, Advocate
for respondent No.2.

VIVEK PURI, J.(ORAL)

Through instant petition, the petitioner is seeking to quash the FIR No. 107 dated 24.05.2021 under Sections 323/34/406 and 498-A IPC registered at Police Station Mahila NIT, Sector-21, Faridabad on the basis of compromise/memorandum of understanding.

On 04.02.2022, the parties were directed to get their statements recorded before the learned Illaqa Magistrate/trial Court.

In compliance of the order dated 04.02.2022, the statements of the parties have been recorded and the learned Judicial Magistrate 1st Class, Faridabad has sent the report and the relevant portion whereof is reproduced here-in-below:-

“On 01.04.2022, complainant Avantika Negi appeared before the Court. Accused Nayan also appeared on 01.04.2022 for recording the statement of compromise. The nature and consequence of the statement being recorded by both the parties was explained to them and after

being satisfied that the statements were being made voluntarily, statements of the concerned parties were recorded. Statement of complainant Avantika Negi and accused Nayan were recorded with regard to their compromise and they placed photocopy of their drafted settlement on the file. Complainant Avantika Negi has duly identified by her counsel Shri Vijay Khatana, Advocate. Accused Nayan is also identified by his counsel Shri Dinesh Nagar, Advocate. There is only one person i.e. Nayan arrayed as accused in the FIR. There is only one complainant Avantika Negi.

Statement of IO also recorded and report has been submitted by the IO HC Kavita in which it has been that accused is not proclaimed offender in the present FIR. It is further stated that in the present case, the case is fixed for supplying copy of challan for 26.07.2022.

In view of the statements of the interested parties, the undersigned is satisfied that they have compromised the matter amongst themselves is without any coercion or undue influence and that the compromise has been genuinely and voluntarily arrived at between them. Statements of the interested parties in original, photocopies of identity cards, photocopy of compromise and statement of Investigating Officer HC Kavita are enclosed herewith.”

Learned counsel for the petitioner contends that the matrimonial dispute has been amicably settled between the parties in terms of memorandum of understanding contained at Annexure P-2. Counsel further contends that a sum of Rs.15 lakhs has been paid to respondent No.2 on account of permanent alimony. The marriage of petitioner and respondent No.2 has been dissolved

by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act in terms of judgment and decree dated 12.04.2022 passed by the Family Court at Faridabad. Although, the FIR was registered against eight persons but except the petitioner, all other persons were found to be innocent and their names have been reflected in column no.2 of the report under Section 173 Cr.P.C.

Learned counsel for respondent No.2 has not disputed the aforesaid factual aspect(s) and has stated that he has no objection if the FIR is quashed.

After hearing learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the parties have arrived at a settlement, out of the Court, by way of compromise. The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

The controversy in the instant case does not indicate that the same involves heinous or serious offences and furthermore, the matrimonial dispute has been sought to be amicably settled. Consequently, a deserving case is made out where the court should exercise the power to secure the ends of justice.

For the aforesaid view, this Court finds support from ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052***, upheld by Hon'ble Apex Court in ***Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303***.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 107 dated 24.05.2021 under Sections 323/34/406 and 498-

A IPC registered at Police Station Mahila NIT, Sector-21, Faridabad is ordered to be quashed, however, qua the petitioner only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

11.05.2022
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No