

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(273)

CRM-M-4407-2022

Date of decision:- 09.05.2022

Ashok Kumar and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bhupinder Ghai, Advocate for the petitioners.

Ms. Ankita Ahuja, AAG, Haryana for State-respondent No.1.

Mr. Mohit Kakkar, Advocate for respondent No.2.

...

SUVIR SEHGAL, J. (Oral)

On 03.02.2022, this Court passed the following order:-

“Heard through video conferencing.

Prayer in this petition is for quashing of FIR No.807 dated 18.08.2018 under Sections 323, 498-A, 377, 506, 34, 354-A of IPC, 1860, (Section 354-A of IPC was deleted later on and Sections 376, 406 of IPC were added later on) registered at Police Station Sirsa City, Sirsa, Haryana, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise deed dated 15.11.2021, Annexure P-4, arrived at between the parties.

Counsel for the petitioners submits that petitioner No.3 is the husband, petitioners No.1 and 2 are the in-laws and petitioner No.4 is the brother-in-law of the complainant/respondent No.2. He submits that marriage of petitioner No.3 was solemnized with the complainant/respondent No.2 on 16.04.2016 and a son was born out of the wedlock. Counsel further submits that the parties could not adjust with each other and have been residing separately since August, 2018, and the dispute between the parties has been settled by virtue of compromise deed, Annexure P-4, whereunder the petitioners have returned all the articles. Still further, by referring to the terms of the compromise, he submits that custody of the minor child is to remain with petitioner

No.3 and the marriage has been dissolved by virtue of a decree passed under Section 13-B of the Hindu Marriage Act, 1955, on 15.11.2021, Annexure P-5.

Counsel contends that though the allegations levelled in the FIR are general in nature, but during her statement recorded before the Investigating Authority, she levelled allegations of rape against petitioner No.4, a challan was filed and charge has been framed under Section 376 of IPC. However, as per his instructions, the complainant has not supported these allegations, when she stepped into the witness-box.

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. As per instructions received by her from ASI Satyanarayan, 05 persons were named as accused in the FIR and challan has been presented against the 04 accused, who are petitioners before this Court. Upon further instructions, she submits that charge has been framed on 28.02.2020, some prosecution witnesses have been examined. Mr. Mohit Kakkar, Advocate accepts notice on behalf of the complainant/respondent No.2 and has filed his Vakalatnama, which is taken on record. He admits the factum of compromise as well as the submissions made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 25.02.2022 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 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 09.05.2022.”

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

- “(i) *There are four accused arraigned in the FIR and all have appeared before it and have made their respective statements. No accused is absconding/Proclaimed Offender in the case;*
- (ii) *The name of the complainant/victim is Priyanka, who along with her mother Sunita has appeared in person and they suffered their separate statements in support of the compromise. There is no other injured/aggrieved party in the case in hand.*
- (iii) *Initially, the case was fixed for prosecution evidence for 17.03.2022. However, on receipt of above said order of Hon'ble High Court, this case was preponed for 07.03.2022 for recording statements of parties. Now the case is fixed for 17.05.2022 for prosecution evidence.*
- (iv) *The compromise effected between the parties is genuine, voluntary and out of their free will.*
- (v) *No other criminal case is pending against any of the accused.”*

FIR, Annexure P-1, is a fallout of a matrimonial dispute, which has been settled, marriage has been dissolved by mutual consent, entire permanent alimony has been paid and the custody of the minor child is with petitioner No.3 as per the terms of the compromise.

In these circumstances and in view of the judgments of the Supreme Court in ***Madan Mohan Abbot Versus State of Punjab (2008) 4 SCC 582***, ***Narinder Singh Versus State of Punjab (2014) 6 SCC 466*** and ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujrat and another (2017) 9 SCC 641***, this Court is of the opinion that continuation of the criminal proceedings would be an exercise in futility and they deserve to be set aside.

Accordingly, the petition is allowed. FIR No.807 dated 18.08.2018 under Sections 323, 498-A, 377, 506, 34, 354-A of IPC, 1860, (Section 354-A of IPC was deleted and Sections 376, 406 of IPC were added later on) registered at Police Station Sirsa City, Sirsa, Haryana, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

09.05.2022
Kamal

(SUVIR SEHGAL)
JUDGE

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