

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

290+124

CRM-M-4992-2022 (O & M)

Date of decision:29.10.2022

Rohit Jain and another

... Petitioners

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Inderjeet Singh, Advocate for the petitioners.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab.

Mr. Jamshed Ahmed, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-37479-2022

Application is allowed as prayed for.

Judgment and decree of divorce dated 29.07.2022 passed under Section 13-B of the Hindu Marriage Act, 1955, is taken on record as Annexure P-5.

Main Case

On 08.02.2022, this Court passed the following order:-

“Heard through video conferencing.

Prayer in this petition is for quashing of FIR No.220 dated 08.12.2018 under Sections 498-A/406 and 120-B of IPC, 1860, registered at Police Station City Dhuri, District Sangrur, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of settlement as mentioned in petition, Annexure P-2.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is the father-in-law of the complainant/respondent No.2. He submits that marriage of petitioner No.1 and respondent No.2 was solemnized on 03.03.2018 and there is no issue out of the wedlock. He submits that due to temperamental differences, a dispute

arose between the parties, which resulted in the registration of FIR, Annexure P-1, but the same has been settled by virtue of a compromise, which is reflected from Para 06 of the joint petition, Annexure P-2, filed by the parties under Section 13-B of the Hindu Marriage Act, 1955, seeking dissolution of marriage by mutual consent. Counsel submits that the first motion has been recorded, an amount of Rs.6 lacs has been paid to the complainant/respondent No.2 and the second motion is yet to be recorded, when the balance amount of Rs.4 lacs will be paid. He submits that the petitioners have not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. He has instructions to state that challan has been presented and charge has been framed against both the accused. Mr. Jamshed Ahmed, Advocate accepts notice on behalf of the complainant/respondent No.2. He admits the factum of compromise as well as statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 19.04.2022 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 09.08.2022.

Judgment and decree of divorce by mutual consent, if passed, be placed on the record before the next date.”

By referring to the judgment and decree, Annexure P-5, counsel for the petitioners submits that marriage has been dissolved by mutual consent and the balance permanent alimony of Rs.4 lac has been paid.

Counsel for the complainant/respondent No.2 besides admitted that a settlement has taken place, submits that the complainant has received the entire permanent alimony of Rs.10 lac.

Heard counsel for the parties.

Pursuance to the above reproduced order, report has been received from the trial court and its relevant extract is as under:-

“1. As per the statement of SI Surjan Singh, Investigating Officer No.950/Sgr now posted at PS City Dhuri only Rohit Jain son of Sh. Vinod Kumar Jain and Vinod Kumar Jain son of Sh. Raj Kumar Jain has been arraigned as accused in FIR No.220 dated 08.12.2018 under Sections 498-A, 406 and 120-B of IPC, PS City Dhuri.

Complainant has also got recorded her statement in Court that apart from Rohit Jain and Vinod Kumar Jain, no other person has been arraigned as accused in the present FIR.

Both the accused persons namely Rohit Jain and Vinod Kumar Jain have got recorded their statement in the Court.

As per the statement of SI Surjan Singh, Investigating Officer neither accused persons of the present case has been declared as proclaimed offender/person nor any proclamation proceedings are pending against them.

As per the statement of accused persons, they are neither declared as proclaimed offender/absconder nor any proclamation proceedings are pending against them.

2. As per statement of complainant and Investigating Officer namely SI Surjan Singh No. 950/Sgr, there is only one complainant in the present case i.e. respondent Neha Garg. There is no other injured/aggrieved party other than the respondent, arrayed in the petition. Complainant/injured has also get recorded her statement regarding compromise effected between the parties.

3. *The present case is pending for prosecution evidence.*

4. *From the statements of the parties recorded, it appears that the said compromise is genuine and has been effected voluntarily without any force, coercion or undue influence and out of free will of the parties.*

5. *Accused have stated that no other complaint or case is pending between the present parties in any other Court of law nor they are involved as accused in any other FIR or criminal trial nor any investigation or inquiry is pending against them.”*

It is evident that FIR, Annexure P-1, is a fallout of a matrimonial dispute, which has been amicably settled and marriage has been dissolved. Keeping in view the above development, report of the trial court and the judgments of the Supreme Court in ***B.S. Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888*** and ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, this Court is of the view that keeping the criminal proceedings alive would not serve any purpose, rather it would increase the agony of the parties.

Accordingly, petition is allowed. FIR No.220 dated 08.12.2018 under Sections 498-A/406 and 120-B of IPC, 1860, registered at Police Station City Dhuri, District Sangrur, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

29.10.2022

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(SUVIR SEHGAL)
JUDGE

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