

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

275+126

CRM-M-4743-2022 (O & M)

Date of decision:10.05.2022

Amit Payal

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gurpreet Singh, Advocate for
Mr. Varun Sharma, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Ashdeep Singh, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-14822-2022

Counsel for the applicant/petitioner submits that the marriage of the parties has been dissolved by mutual consent vide judgment and decree dated 08.02.2022 and he may be permitted to place it on the record as Annexure P-4.

Application is allowed. The said judgment and decree is taken on record as Annexure P-4.

Main Case

On 07.02.2022, this Court passed the following order:-

“Heard through video conferencing.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.0015 dated 28.01.2021 registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Phase-I, S.A.S., Nagar, Mohali, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of the compromise dated 16.07.2021, Annexure P-2.

Counsel for the petitioner submits that marriage of the petitioner was solemnized with complainant-respondent No.2 on 14.04.2015, but due to temperamental differences, they have been separate in a residence since February, 2019 and FIR, Annexure P-1, is an outcome of the matrimonial discord, and no issue was born out of the wedlock. He submits that the differences between the parties have been settled by virtue of compromise, Annexure P-2, and petition under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of marriage by mutual consent has been filed and the entire permanent alimony amount of Rs.10.50 lacs has been paid.

Notice of motion.

On asking of the Court, Mr. Dhruv Dayal, Senior D.A.G., Punjab accepts notice on behalf of respondent No.1-State. As per instructions received by him from, SI, Pritpal Singh, matter is under investigation. Mr. Ashdeep Singh, Advocate has put in appearance and accepts notice on behalf of respondent No.1 (sic respondent No.2)-complainant. He has admitted the factum of compromise between the parties as well as the statement made by counsel for the petitioner.

The parties and the Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 10.03.2022 or on any date within a fortnight 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 the Illaqa Magistrate/trial Court be awaited for 10.05.2022.

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

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

- “1. There is one person arrayed as accused in this FIR i.e. Amit Payal Son of Mahipal Singh @ Mahipal Singh Payal. The said accused Amit Payal has appeared before the court for making statement. As per the statement of the parties he has not been declared PO/absconder in this case.*
- 2. The name of the complainant is Sonia Payal and she is the only injured/ aggrieved in this case who has appeared and given her statement in support of the compromise.*
- 3. The case is still pending at the stage of awaiting challan.*
- 4. From the statement of the parties, it appears that compromise is genuine, voluntary and without coercion or undue influence. Hence, the compromise is affected (sic effected) out of free will of the parties.*
- 5. No other criminal case is pending against the accused as per his statement.”*

FIR, Annexure P-1, is a fallout of a matrimonial dispute, which has been settled and marriage has been dissolved by mutual consent. In view of the above backdrop and the judgment of the Supreme Court in ***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 continuation of the criminal proceedings would not serve any purpose and the same deserve to be set aside.

Accordingly, petition is allowed. FIR No.0015 dated 28.01.2021 registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Phase-I, S.A.S., Nagar, Mohali, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioner.

10.05.2022

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**(SUVIR SEHGAL)
JUDGE**

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