

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(119+235)

CRM-M-5512-2022 (O&M)
Date of Decision:- 26.08.2022

Ashu Dixit

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Mallika Dhillon, Advocate for the applicant-petitioner.

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

SUVIR SEHGAL, J. (Oral)

CRM-27563-2022 AND CRM-30569-2022

For the reasons given in the applications, they are allowed.

Annexures P-9 and P-10 are taken on record.

Main case

Ms. Roma Gill, Advocate has put in appearance on behalf of complainant-respondent No.2 and has filed Vakalatnama, which is taken on record.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.143 dated 25.12.2018, registered for offences under Sections 498-A, 406 and 313 of the Indian Penal Code, 1860 (for short "IPC"), however, later on Section 313, IPC was deleted, at Police Station Sector-17, Faridabad, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise arrived at between the parties.

Counsel for the petitioner submits that marriage of petitioner was solemnized with complainant-respondent No.2 on 18.02.2017 and there was no issue out of the wedlock. She submits that due to temperamental differences, the parties could not adjust with each other and have been living separately since November, 2017. As per the counsel, the matrimonial dispute has been settled and the settlement is reflected from the joint statements of the parties, Annexures P-5 and P-10, recorded before the Matrimonial Court. She submits that the entire permanent alimony of Rs.2 lacs stands paid.

Upon instructions received from ASI, Parvesh, State counsel submits that a number of persons were named as an accused in the FIR and on conclusion of investigation, challan has been presented against the petitioner and charge has been framed, though no witness has been examined. She submits that offence under Section 313, IPC has been deleted.

Counsel representing complainant-respondent No.2 has admitted the factum of compromise and supports the prayer made in the petition.

Heard counsel for the parties.

Vide order dated 10.02.2022, this Court directed the parties as well as the Investigating Officer to appear before the Trial Court/Area Magistrate and get their statements recorded on the following aspects:-

- “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."*

A report was called for from the Trial Court, which has been received and its relevant extract is reproduced as under:-

"(i) As per the order of the Hon'ble High Court dated 10.02.2022 in the case titled "ASHU DIXIT Vs. STATE OF HARYANA AND ANOTHER" IN CRM-M-5512-2022, the Trial Court/Illaq Magistrate was directed to record the statements of the parties on 08.04.2022. The complainant namely Ms. Pooja Pathak and the accused persons namely Ashu Dixit have appeared before the Trial Court on 08.04.2022 for the purpose of recording of their statements and their statements were recorded by the Trial Court on that date.

(ii) The complainant namely Ms. Pooja Pathak and the accused person namely Ashu Dixit have clearly stated that they have entered into the compromise voluntarily and without any pressure. The accused person and the complainant were duly identified by their counsels, i.e., Sh. Ankit Poswal, Advocate for the accused person and Sh. S.S.Tanwar, Advocate for the complainant. Their Power of Attorneys are also on record. The Aadhar Cards of the accused persons along with the complainant have also been placed on record.

(iii) In the present case, as per the statement of ASI, Harkesh No.2522, at present posted at Police Post, Sector-16, Police Station, Sector-17, Faridabad, the FIR was registered against six accused persons namely, Ashu Dixit, Vijay Dixit, Hemlata, Mini Dixit, Meenakshi Dixit and Avdesh Dixit. The challan was filed only against one accused person namely Ashu Dixit before the Court.

The accused person namely Ashu Dixit have appeared before the Trial Court/Illaq Magistrate for the purpose of recording of his statement and his statement was recorded on 08.04.2022.

(iv) As per the statement of ASI, Harkesh No.2522, at present posted at Police Post, Sector-16, Police Station, Sector-17, Faridabad, no other criminal case is pending against the accused person namely Ashu Dixit.

(v) As per the statement of ASI, Harkesh No.2522, none has been declared as Proclaimed Offender(s)/absconding in the present FIR No.143 dated 25.12.2018 under Sections 498-A, 406 IPC, PS Sector-17, Faridabad.

It was further stated by the ASI Harkesh No.2522 that Ms. Pooja Pathak D/o Sh. Rajiv Pathak, resident of H. No.504, Sant Nagar, Faridabad is the only complainant/aggrieved person of the present case. The complainant namely Ms. Pooja Pathak has already been appeared before the Court on 08.04.2022 for the purpose of recording of her statement and her statement was recorded on that date.

(vi) As per the record, the present case is pending at the stage of prosecution evidence.

(vii) This Court is of the considered view that the compromise appears to be genuine and has been reached voluntarily and without any coercion or undue influence between the complainant namely Ms. Pooja Pathak and the accused person namely Ashu Dixit and they have made their statements voluntarily and without any threat, inducement, coercion or undue influence.”

It is evident that FIR, Annexure P-1, is an outcome of a matrimonial dispute, which has been 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 pending would be an exercise in futility.

Accordingly, the petition is allowed. FIR No.143 dated 25.12.2018, registered for offences under Sections 498-A, 406 and 313 of IPC, however, later on Section 313, IPC was deleted, at Police Station Sector-17, Faridabad, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

26.08.2022

Kamal

(SUVIR SEHGAL)
JUDGE

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