

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(117+250)

CRM-M-7069-2022 (O&M)
Date of Decision:- 14.10.2022

Jatinder Kumar @ Jatinder Kumar Sharma

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vipin Kumar, Advocate for the applicant-petitioner.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab
for State-respondent No.1.

Mr. Ravi Malhotra, Advocate for
Mr. S.K.Rohilla, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-37475-2022

Application is allowed as prayed for.

Judgment and decree dated 20.07.2022 passed under Section
13-B of the Hindu Marriage Act, 1955 is taken on record as Annexure P-3.

Main case

On 21.02.2022, this Court passed the following order:-

“Instant petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.73 dated 13.09.2014 registered under Sections 406, 498-A of Indian Penal Code, 1860, at Police Station Women Cell, District Jalandhar (Annexure P-1) on the basis of compromise dated 07.01.2022 (Annexure P-2) arrived at between the parties.

Counsel for the petitioner submits that marriage of the petitioner was solemnized with the complainant-respondent No.2 on 27.11.2009 and a daughter was born out of the wedlock, but due to some misunderstanding between the parties, they could not pull along and parted ways. As per his instructions, compromise (Annexure P-2) has been entered into between the parties, whereunder, it has been agreed that Rs.6.00 lacs will be paid by way of permanent alimony to the complainant-respondent No.2 and in terms of the compromise, a petition under Section 13-B of Hindu Marriage Act, 1955 seeking divorce by mutual consent has been instituted, first motion has been recorded and Rs.3.00 lacs has been paid. He submits that the second motion is to be recorded on 20.07.2022. By referring to para 11 of the petition, counsel submits that the petitioner has not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. P.S.Walia, Assistant Advocate General, Punjab accepts notice on behalf of respondent No.1-State. Mr. S.K.Rohilla, Advocate appears on behalf of the complainant-respondent No.2 and has filed his 'Power of Attorney', which is taken on record. He has admitted the factum of compromise as well as statement made by counsel for the petitioner.

The parties and Investigating Officer are directed to appear before the Trial Court/Illaq Magistrate on 02.03.2022 or on any date thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Illaq Magistrate shall submit a report 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 Trial Court/Illaq Magistrate be awaited for 09.08.2022.”

Counsel for the petitioner submits that marriage has been dissolved by mutual consent and the entire permanent alimony of Rs.6 lacs has been paid. Still further, by referring to para 2 of the judgment, Annexure P-3, counsel submits that the custody of the minor child is with the complainant-respondent No.2.

Upon instructions received from ASI, Lakhwinder Singh, State counsel submits that trial is underway and some prosecution witnesses have been examined.

Counsel representing complainant-respondent No.2 has admitted the factum of compromise and supports the prayer made in the petition as well as the statement made by counsel for the petitioner.

Heard counsel for the parties.

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

“As per record the name of the complainant of the present case is Pooja and except her there is no other complainant in this FIR. The name of the accused is Jatinder Kumar @ Jatinder Kumar Sharma. Except him, there is no other person nominated by the police as accused. He is not declared proclaimed offender in this case. Both parties appeared in the Court and suffered statement regarding compromise. At present, the case is pending for prosecution evidence.

Both parties have compromised the matter. There is no grudge remain (sic remaining) between (the) parties. The compromise is voluntarily, without any pressure or coercion. This Court is of the considered opinion that the compromise has been effected between the complainant and accused and same is voluntary, without any pressure or coercion and is genuine one.”

Keeping in view the fact that FIR, Annexure P-1, is a result of a marital discord, which has been amicably settled and marriage has been dissolved, this Court is of the opinion that keeping the criminal proceedings alive would be an exercise in futility.

In view of the above development, report of the Trial Court and the judgments of Supreme Court in *B.S.Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888* and *Narinder Singh Versus State of Punjab (2014) 6 SCC 466*, this Court has no hesitation in exercising the inherent powers vested in it under Section 482 of the Code of Criminal Procedure, 1973.

Accordingly, the petition is allowed. FIR No.73 dated 13.09.2014 registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women Cell, District Jalandhar, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

14.10.2022
Kamal

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