

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(116+263)

CRM-M-7187-2022 (O&M)
Date of Decision:- 27.10.2022

Ishan Pawha

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gulzar Mohammed, Advocate for the applicant-petitioner.

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

Mr. Pankaj Kalia, Advocate
Mr. Rajesh Gupta, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-40152-2022

Application is allowed as prayed for.

Judgment and decree dated 01.09.2022 passed under Section
13-B of the Hindu Marriage Act, 1955 is taken on record as Annexure P-4.

Main case

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code") for quashing of FIR No.20 dated 07.02.2020, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women (Commissionerate), Jalandhar, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise dated 26.11.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that petitioner's marriage was solemnized with complainant-respondent No.2 on 07.03.2015 at Jalandhar and a son was born out of the wedlock. He submits that due to temperamental differences, the parties have been living separately since May, 2019 and there has been a total break down of the marriage. He submits that matrimonial dispute has been settled by virtue of compromise, Annexure P-2, marriage has been dissolved by judgment and decree, Annexure P-4 and the entire permanent alimony of Rs.10 lacs has been paid. Still further, he submits that in terms of the compromise, the custody of the minor will remain with complainant-respondent No.2.

Upon instructions received from ASI, Harpal Singh, State counsel submits that on conclusion of investigation, report has been presented under Section 173 of the Code, but charge has not been framed.

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 22.04.2022, this Court directed the parties to appear before the Trial Court/Area Magistrate for getting their statements recorded and a report was called for on the following points:-

- “1. Number of persons arrayed as accused in FIR;*
- 2. Whether any accused is proclaimed offender, and*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other FIR or not.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.”*

Report has been received and its relevant extract is as under:-

“The parties were present with their counsel and got recorded their statements in respect to the compromise taken place between them. All the parties are duly identified by their counsels.

As per record the name of the complainant of the present case is Shilpa Pahwa and except her there is no other complainant in this FIR. The name of the accused is Ishan Pahwa. Except him, there is no other persons nominated by the police as accused. As per record, accused is neither involved in any other case nor declared proclaimed offender in any other criminal case. At present, the case is pending for reply to application.

Both parties have compromised the matter. There is no grudge remain between 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.”

It is evident that FIR, Annexure P-1, is a result of bitterness and acrimony between an estranged married couple, which has been amicably settled by virtue of compromise, Annexure P-2. Parties have decided to bury their hatchet and lead separate lives.

Keeping in view 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 ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, this Court is of the opinion that setting aside of the criminal proceedings would enable the parties to lead a peaceful life.

Accordingly, the petition is allowed. FIR No.20 dated 07.02.2020, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women (Commissionerate), Jalandhar, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

27.10.2022
Kamal

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