

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(127)

CRM-M-8156-2022 (O&M)

Date of Decision:- 08.08.2022

Bhavuk @ Bhawuk Kataria

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ravi Chadda, Advocate for the applicant-petitioner.

Mr. A.S.Gill, Senior DAG, Punjab for State-respondent No.1.

Mr. Vishal Sharma, Advocate for
Mr. Kuljit Singh Bal, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-27426-2022

Prayer in the application is for preponement of the hearing of main case, which is fixed for 16.02.2023.

Noticing the prayer made in the application, it is allowed.

Date of hearing of the main case is preponed to today and it is ordered to be taken up on Board.

CRM-27433-2022

Application is allowed as prayed for.

Statements of the parties recorded during both the motions as well as the judgment and decree dated 10.05.2022 passed under Section 13-B of the Hindu Marriage Act, 1955 are taken on record as Annexure P-4 (colly).

Main case

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.181 dated 15.09.2019, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860 (for short "IPC"), however, later on Section 377, IPC was added, at Police Station City-2 Khanna, District Ludhiana, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise dated 15.09.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that the petitioner is the husband of complainant-respondent No.2 and their marriage was solemnized on 14.02.2018. He submits that there is no issue out of the wedlock and due to temperamental differences, the parties could not adjust with each other and have been residing separately since 24.06.2020. Counsel states that FIR, Annexure P-1, is an outcome of a marital discord, which has been settled by virtue of settlement agreement, Annexure P-2, arrived at before the Mediation and Conciliation Centre of this Court. He submits that marriage has been dissolved by mutual consent and the entire permanent alimony of Rs.5.25 lacs stands paid.

Upon instructions received from ASI, Harwinder Singh, State counsel submits that petitioner is the sole accused, investigation qua him is complete, challan has been presented, though charge has not been framed.

Counsel representing complainant-respondent No.2 has admitted the factum of compromise as well as the statement made by counsel for the petitioner. Still further, he submits that another FIR bearing No.467 dated

19.12.2019 has been lodged by the complainant under Section 341, 323 and 506, IPC at Police Station Zirakpur, District SAS Nagar, Mohali, which has also been settled.

Heard counsel for the parties.

Vide order dated 24.02.2022, this Court directed the parties as well as the Investigating Officer to appear before the Trial Court/Area Magistrate to get their statements recorded and a report was called for on following counts:-

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

“(1) As per the statement of ASI Jagdeep Singh No.152/Khanna, posted at P.S.City-2 Khanna, and record of the case, in the present case, only one person namely Bhavuk @ Bhawuk Kataria has been arraigned as accused and he has appeared in the Court and suffered separate statement regarding compromise and he is not proclaimed offender in the present case.

(2) As per the statement of ASI Jagdeep Singh No.152/Khanna, posted at P.S.City-2 Khanna, and record of the case, in the present case, there is only one complainant-cum-aggrieved person namely Amisha Kapoor daughter of Nivedan Kapoor and she has appeared in the Court and suffered separate statement regarding compromise.

(3) The case is at the stage of framing of charge against the accused.

(4) In the opinion of the undersigned, the parties have voluntarily, without any pressure or coercion or undue influence, and out of their free will and consent have

entered into the compromise between themselves and have settled the matter amicably and the said compromise on the face of it seems to be voluntary, genuine and true. The dispute between the parties was matrimonial dispute and there is nothing on the file to suspect the compromise between the parties.

(5) As per the statement of ASI Jagdeep Singh No.152/Khanna, one another FIR bearing 467 dated 19.12.2019 under Sections 341, 323, 506 IPC registered at P.S.Zirakpur, District SAS Nagar (Mohali) has been registered against present accused Bhavuk @ Bhawuk Kataria by present complainant Amisha Kapoor.”

FIR, Annexure P-1, is an offshoot of a matrimonial dispute, which has been settled and marriage has been dissolved by mutual consent.

Keeping in view the above facts, report of the Trial Court as well as the judgments of Supreme Court in ***Gold Quest International Private Limited Versus The State of Tamil Nadu and others (2014) 15 SCC 235*** and ***Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641***, this Court is of the considered opinion that continuation of criminal proceedings would be a futile exercise.

Accordingly, petition is allowed. FIR No.181 dated 15.09.2019, registered for offences under Sections 406 and 498-A, IPC, however, later on Section 377, IPC was added, at Police Station City-2 Khanna, District Ludhiana, Annexure P- 1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

08.08.2022

Kamal

(SUVIR SEHGAL)
JUDGE

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