

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(129)

CRM-M-9041-2022
Date of Decision:- 13.05.2022
...Petitioner

Nitesh Dhull

VERSUS

State of U.T., Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rahul Bhargava, Advocate for
Mr. Munish Dewan, Advocate for the petitioner.

Ms. Simsi Dhir Malhotra, A.P.P., U.T., Chandigarh
for the State-respondent No.1.

Respondent No.2 in person.

SUVIR SEHGAL, J. (Oral)

Complainant-respondent No.2, who is present in Court, has filed
a self attested Xerox copy of her Aadhar Card, 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.0005 dated 18.01.2021,
registered for offences under Sections 406 and 498-A of the Indian Penal
Code, 1860, at Police Station Women, Sector-17, Chandigarh, Annexure P-
1, along with all subsequent proceedings arising therefrom, on the basis of
compromise dated 09.02.2022, Annexure P-2, arrived at between the
parties.

Counsel for the petitioner submits that marriage of petitioner was
solemnized with complainant-respondent No.2 on 11.11.2017 and there is
no issue out of the wedlock. However, due to temperamental differences,
the parties could not adjust with each other and started residing separately

since January, 2018. He submits that the marital dispute has been settled by virtue of compromise, Annexure P-2, and a petition seeking divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955, has been instituted. Still further, he submits that first motion has been recorded and the second motion is to be recorded in August, 2022. It is his submission that out of the permanent alimony of Rs.10 Lakhs, half the amount has already been paid and the balance is to be paid at the time of recording of the second motion.

Upon instructions received from ASI, Karan Singh, State counsel submits that the matter is under investigation and final report has not submitted so far.

Respondent No.2, who is present in person, has admitted the factum of compromise and does not dispute the statement of counsel for the petitioner. She has filed her affidavit dated 12.05.2022, which is taken on record, wherein she has stated that she has no objection to the quashing of the FIR and has submitted that she will be responsible for the recovery of the balance alimony from the petitioner.

Heard counsel for the parties.

Vide order dated 03.03.2022, this Court directed the parties to appear before the Trial Court to get their statements recorded in support of the compromise and a report was called for, on the following points.

- “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) FIR No.05 dated 18.01.2021, u/s 406, 498 (sic 498-A) IPC, at PS-WPS-17, Chandigarh has been registered against one accused person namely Nitesh Dhull. Accused Nitesh Dhull has appeared and made his statement before the Court. None of the accused person has been declared proclaimed offender.

(2) There is only one complainant/aggrieved i.e. Jyoti Deswal d/o Sh. Balbir Singh Deswal. Complainant, Jyoti Deswal, has appeared and made her statement before the Court in support of compromise.

(3) As per statement of complainant, accused person and Investigating Officer, only FIR has been registered and the case is still under investigation.

(4) On the basis of statement given by parties, this Court is of the considered view that compromise between complainant, Jyoti Deswal and accused, Nitesh Dhull, is genuine, it has been effected voluntarily without any pressure, coercion or undue influence from any quarter.

(5) As per statement of Investigating Officer, no other criminal case is pending against the accused.”

FIR is a result of a matrimonial dispute, which has been amicably settled, parties have decided to part ways and a petition has been filed for dissolving the marriage by mutual consent.

In view of the above backdrop, affidavit of respondent No.2, report of the Trial Court and the judgments of the Supreme Court in ***Madan Mohan Abbot Versus State of Punjab (2008) 4 SCC 582, 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 Gujrat and another (2017) 9 SCC 641***, this Court has no hesitation in setting aside the criminal proceedings.

Accordingly, the petition is allowed. FIR No.0005 dated

18.01.2021, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women, Sector-17, Chandigarh, Annexure P-1, and all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

13.05.2022
Kamal

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