

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(117+275)

CRM-M-9252-2022 (O&M)
Date of Decision:- 13.09.2022

Sukhjinder Singh and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Shakti Mehta, Advocate for the petitioners.

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

Mr. Vipul Sachdeva, Advocate for
Mr. G.S.Brar, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-25816-2022

Application is allowed as prayed for.

Judgment and decree dated 31.03.2022 dissolving marriage under
Section 13-B of the Hindu Marriage Act, 1955 is taken on record as
Annexure P-4.

Main case

On 04.03.2022, this Court passed the following order:-

“Heard through video conferencing.

*Prayer in this petition is for quashing of FIR
No.27 dated 22.03.2019 under Sections 406/498-
A/323/506/201 (added later on) of IPC, 1860, registered at
Police Station Women, District Patiala, Annexure P-1,
along with all consequential proceedings arising
therefrom, on the basis of compromise deed dated
23.02.2022, Annexure P-2.*

Counsel for the petitioners submits that

petitioner No.1 is the husband and petitioners No.2 to 6 are his family members. Counsel submits that marriage of petitioner No.1 was solemnized with complainant/respondent No.2 on 17.09.2010 and two daughters were born out of the wedlock. He submits that due to temperamental differences between them, they have been staying separately since January, 2018 and all differences have been resolved by virtue of compromise deed, Annexure P-2, wherein it has been inter alia stated that the parties have returned their articles to each other and nothing is due from any party. Still further, he submits that petition under Section 13-B of the Hindu Marriage Act, 1955, seeking divorce by mutual consent has been filed, first motion has been recorded and the second motion is to be recorded on 14.03.2022. By referring to Para 03 of the petition filed under Section 13-B ibid, counsel for the petitioners submits that the parties have agreed that the custody of both the daughters will remain with the complainant/respondent No.2.

Notice of motion.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. As per instructions received by him from HC Mander Singh, after completion of investigation, final report has been presented, charge has been framed against 07 accused. Ms. Silvi Katoch, Advocate accepts notice on behalf of the complainant/respondent No.2. She admits the factum of compromise as well as statement made by counsel for the petitioners.

Counsel for the petitioners submits that besides 06 petitioners, the 7th accused is Surjit Kaur @ Sito, mother-in-law of the complainant, who has expired on 26.11.2021 and her Death Certificate is appended as Annexure P-3.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 14.03.2022 or any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing. The report be forwarded to this Court 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 Illaqa Magistrate/trial Court be awaited for 06.05.2022.”

While referring to the judgment, Annexure P-4, counsel for the petitioners submits that marriage has been dissolved. Counsel has invited the attention of the Court to the judgment to submit that it has been recorded that petitioner No.1 will not claim the custody of both the minor daughters, who will live with complainant-respondent No.2.

Upon instructions received from ASI, Varinder, State counsel submits that the trial is underway, however, no prosecution witness has been examined.

Counsel for the complainant has supported the prayer made in the petition.

Heard counsel for the parties.

Pursuant to the above reproduced order, report has been received from the Trial Court and its relevant extract is as under:-

“1. As per the statement of Investigating Officer only Sukhjinder Singh, Jeet Singh, Suman @ Suman Rani, Harmesh Singh @ Kala, Nirmal Kaur @ Nimmo, Pargat Singh and accused Surjit Kaur (since died) have been arrayed as accused in this case. As per the statement of Investigating Officer no absconding/proclamation proceedings are pending against the accused persons in the present case.

2. *Only Sharanpreet Kaur is complainant, injured/aggrieved in the present case and she has appeared in the Court for recording her statement in support of the compromise.*

3. *The present case is pending for prosecution evidence.*

4. *From the statements of the parties recorded, it appears that the said compromise is genuine and has been effected voluntarily without any force, coercion or undue influence and out of free will of the parties.*

5. *As per the statement of Investigating Officer as per record of Police Station Women, Patiala accused persons are not involved in any other case.”*

It is evident from the above, FIR, Annexure P-1, has emanated from a matrimonial dispute, which has been amicably settled.

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 prolonging the criminal proceedings would be a futile exercise.

Accordingly, the petition is allowed. FIR No.27 dated 22.03.2019 under Sections 406/498-A/323/506/201 (added later on) of IPC, 1860, registered at Police Station Women, District Patiala, Annexure P-1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(SUVIR SEHGAL)
JUDGE

13.09.2022

Kamal

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