

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

233+117

CRM-M-10641-2021 (O & M)

Date of decision:26.08.2022

Shanky Kakkar

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rahul Deswal, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Rajesh Dhiman, Advocate for respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-29613-2022

Allowed as prayed for.

Judgment and decree dated 22.03.2021 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 Cr.P.C. for quashing of FIR No.284 dated 17.04.2017 under Sections 323, 34, 406 and 498-A of IPC, 1860, registered at Police Station Sirsa City, District Sirsa, Annexure P-1, alongwith all subsequent proceedings arising therefrom, on the basis of compromise deed dated 28.02.2021, Annexure P-2, which is supported with an affidavit of the complainant, Annexure P-3, arrived at between the parties.

Counsel for the petitioner submits that marriage of petitioner was solemnized with the complainant/respondent No.2 on 17.04.2016 at Sirsa and there is no issue out of the wedlock. He submits that the parties could not adjust with each other due to marital incompatibility and parted ways soon thereafter. Counsel submits that FIR, Annexure P-1, is a fallout of marital discord, which has been settled by compromise, Annexure P-2, and marriage has been dissolved by judgment and decree, Annexure P-4. Counsel submits that the compromise, Annexure P-2, is supported with an affidavit of the complainant, Annexure P-3, and it has been agreed that the complainant will not claim any permanent alimony from the petitioner.

Upon instructions from ASI Inder Jain, State counsel submits that a number of persons were named as accused in the FIR, but after conclusion of investigation, *challan* has been presented against the petitioner alone. As per her instructions, charge has been framed, but no prosecution witness has been examined.

Counsel for the 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 08.03.2021, this Court directed the parties to appear before the Area Magistrate/Trial Court for getting their statements recorded and a report was called for, seeking the following information:-

- “1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

4. *Whether the accused persons are involved in any other case or not.*

5. *Current stage of the case.*”

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

“(i) That, initially the case was registered against three accused namely Shanky, Vijay and Lalita. During investigation the accused namely Vijay and Lalita were exonerated from the main case. Presently, there is only one accused namely Shanky Kakkar.

(ii) That, in the present case, no accused have been declared proclaimed offender.

(iii) That, the parties have entered into the compromise without any force and coercion and in my opinion compromise between the parties is genuine, voluntarily and without coercion and undue influence.

(iv) That, no other case is registered against accused Shanky except the present case.

(v) That, the present case file was fixed for the examination of the witnesses on behalf of the prosecution.

IO/ASI Shalender has appeared before the court and made a statement that he was deputed on 17.04.2017 as Incharge, P.P. Kirti Nagar, Sirsa. He further made a statement that on the statement of Sheetal wife of Shanky Kakkar, the case FIR no. 284 dated 17.04.2017 under Sections 323, 406, 498-A read with section 34 of IPC, P.S. City Sirsa was got registered in which Shanky, Vijay and Lalita were implicated as accused persons. During investigation accused Vijay and Lalita were found innocent and challan was filed against accused Shanky Kakkar in aforementioned sections by Inspector Ram Singh and same was presented by him in the court. He further made a statement that in the present case the only victim is Sheetal wife of Shanky Kakkar and there is only one accused namely Shanky son of Vijay Kakkar.

I have also questioned both the parties to satisfy myself about the validity of compromise and I am satisfied that the parties have entered into the compromise without any fear, force and coercion and in my considered

opinion compromise between the parties is genuine.”

It is evident from the above that FIR, Annexure P-1, is a result of a matrimonial dispute, which has been settled and marriage has been dissolved by mutual consent. Keeping in view the above development, report of the trial court and the judgments of the Supreme Court in ***Gold Quest International Private Limited Versus The State of Tamil Nadu and others (2014) 15 SCC 235*** and ***Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322***, this Court is of the view that prolonging the criminal proceedings will not serve any purpose and setting them aside will enable the parties to lead a peaceful life.

Accordingly, petition is allowed. FIR No.284 dated 17.04.2017 under Sections 323, 34, 406 and 498-A of IPC, 1860, registered at Police Station Sirsa City, District Sirsa, Annexure P-1, and all subsequent proceedings arising therefrom, are quashed qua the petitioner.

26.08.2022

sheetal

(SUVIR SEHGAL)

JUDGE

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