

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

248

CRM-M-10060-2022
Date of decision:28.10.2022

Nishant Handa and another

... Petitioners

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Achin Gupta, Advocate
for the petitioners.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab.

Mr. Karan Bansal, Advocate for
Mr. J.S. Lalli, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

On 09.03.2022, this Court passed the following order:-

“Prayer in this petition is for quashing of FIR No.199 dated 08.09.2021 under Section 498-A of IPC, 1860, and Section 04 of Dowry Prohibition Act, 1961, registered at Police Station City Kotkapura, District Faridkot, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise, Annexure P-2, arrived at between the parties.

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioner No.2 is mother-in-law of complainant/respondent No.2. Counsel submits that marriage of petitioner No.1

was solemnized with complainant/respondent No.2 on 25.11.2017 and there is no issue out of the wedlock. He submits that due to temperamental differences between them, they have been staying separately since 2019 and all differences have been resolved by virtue of compromise, Annexure P-2. Counsel submits that in terms of the compromise, a petition under Section 13-B of the Hindu Marriage Act, 1955, seeking divorce by mutual consent has been filed. As per his instructions, a sum of Rs.2.60 lacs has been paid to the complainant/respondent No.2 at the time of recording of first motion and Rs.2.60 lacs has to be paid at the time of recording of second motion on 31.08.2022. By referring to Para 10 of the petition, he submits that none of the petitioners has been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. A.S. Gill, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1-State. Mr. J.S. Lalli, Advocate accepts notice on behalf of the complainant/respondent No.2 and filed his Power of Attorney in Court, which is taken on record. He admits the factum of compromise as well as statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 17.05.2022 or any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing 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 Area Magistrate/Trial Court be awaited for 20.09.2022.”

Counsel for the petitioners submits that the petitioners have paid the balance amount of permanent alimony and the date of recording of the second motion was preponed to 17.05.2022 and a divorce decree, Annexure P-4, has been passed on the said date.

Upon instructions from ASI Nachhatar Singh, State counsel submits that on conclusion of investigation, *challan* has been presented, but no charge has been framed.

Counsel for the complainant/respondent No.2 has admitted the receipt of the entire permanent alimony of Rs.5.20 lac and supports 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:-

“(i) Two accused, namely, Nishant Handa and Neena Handa have been arraigned in the FIR and both of them have appeared before this Court and as per statement of the Investigating Officer no accused is absconding/ P.O. in this case.

(ii) As per statement of the Investigating Officer, there is only one complainant/aggrieved, namely, Pooja and she has appeared before this Court and made her statement in support of the compromise.

(iii) As per statement of the Investigating Officer, Investigation has been completed and Challan/report under Section 173 Cr.P.C. has been prepared and presented before this Court and same is pending for arguments on charge.

(iv) The compromise so arrived at between the parties is genuine, voluntary and out of free will of the parties.

(v) As per statement of the petitioners/accused and Investigating Officer no other criminal case is pending against the accused-petitioners.”

It is apparent that FIR, Annexure P-1, emanated from a matrimonial dispute between the parties, which has been amicably settled and marriage has been dissolved. Parties have decided to bury the past differences and start life afresh. This Court is of the opinion that it is a fit case to exercise the inherent powers vested in this Court under Section 482 of the Code and to set the criminal proceedings at naught. In view of the above circumstances and the judgment of the Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641*, this Court has no hesitation in setting aside the criminal proceedings.

Accordingly, petition is allowed. FIR No.199 dated 08.09.2021 under Section 498-A of IPC, 1860, and Section 04 of Dowry Prohibition Act, 1961, registered at Police Station City Kotkapura, District Faridkot, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

28.10.2022
sheetal

(SUVIR SEHGAL)
JUDGE

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