

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

284+136

CRM-M-11613-2022 (O & M)

Date of decision:19.09.2022

Mohit Singh and others

... Petitioners

Vs.

U.T., Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Satyaveer Singh, Advocate for the petitioners.

Mr. P.S. Paul, Addl. P.P., UT, Chandigarh.

Mr. Ashish Partap Pundir, Advocate
for respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-35620-2022

Application is allowed as prayed for.

Judgment and decree of divorce dated 15.07.2022 passed under Section 13-B of the Hindu Marriage Act, 1955, is taken on record as Annexure P-7.

Main Case

On 21.03.2022, this Court passed the following order:-

“Instant petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.59 dated 15.07.2020 registered under Sections 498-A, 406 of Indian Penal Code, 1860 at Women Police Station, Sector 17, Chandigarh (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of compromise deed dated 13.12.2021 (Annexure P-2).

Counsel for the petitioners submits that petitioner No.1 is the husband and petitioners No.2 and 3 are the in-laws of the complainant-respondent No.2. The marriage of petitioner No.1

was solemnized with the complainant-respondent No.2 on 22.02.2015 and a son was born out of the wedlock, but due to temperamental differences, they could not pull along and have been living separately since 12.08.2019. He submits that FIR is an outcome of matrimonial dispute, which has been settled by virtue of compromise (Annexure P-2). Counsel submits that a petition under Section 13-B of Hindu Marriage Act, 1955 has been filed seeking divorce by mutual consent and the first motion has been recorded. He submits that as per the terms of the compromise, a sum of Rs.10.00 lacs has been agreed to be paid as permanent alimony to the complainant-respondent No.2, out of which half of the amount has been paid at the time of recording of the first motion and the balance amount is to be paid at the time of recording of the second motion on 15.07.2022. By referring to para 15 of the petition, counsel submits that the petitioners have not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr.Imran, Advocate for Mr. P.S.Paul, Addl.P.P.,U.T, Chandigarh accepts notice on behalf of respondent No.1- State.

Mr.Ashish Partap Pundir, Advocate, who appears on behalf of the complainant-respondent No.2, has filed his 'Power of Attorney, which is taken on record. He has admitted 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 Trial Court/Area Magistrate on 02.05.2022 or on any date thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Area Magistrate shall submit a report 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 Trial Court/Area Magistrate be

awaited for 24.08.2022.

Decree of divorce, if passed, be placed on record on or before the next date.”

By making a reference to the judgment and decree, Annexure P-7, counsel for the petitioners submits that marriage has been dissolved by mutual consent and the entire permanent alimony of Rs.10 lac has been paid. Still further, by inviting the attention of the Court to Para 02 of the compromise, Annexure P-2, he submits that the custody of the minor child is to remain with the complainant.

Upon instructions from ASI Mahinder Singh, State counsel submits that the matter is at the stage of investigation.

Counsel for the complainant/respondent No.2 has besides admitting the factum of compromise, admitted the receipt of the balance amount of permanent alimony.

Heard counsel for the parties.

Report has been received from the trial court pursuant to the above-said reproduced order and its relevant extract is as under:-

“6. (i) It is humbly submitted that there are a total of three accused persons, namely Mohit Singh, Shailendra Kumar and Savita Devi, arrayed in the present FIR. All the said accused persons have appeared before this Court and have got recorded their statements regarding the compromise effected between them and the complainant. As per the statement of the Investigating Officer of this case, the accused are not involved in any other case and have never been declared proclaimed persons in this case or in any other criminal case.

ii) There is only one complainant, namely Jyoti Bala, in the present FIR. She has appeared before this Court and has got recorded her statement regarding the compromise effected between her and the accused.

iii) In the case in hand, the Challan has not been presented yet and the compromise has been effected between the parties at the stage of its investigation.

iv) *From the statements of the parties, it seems that the compromise between the parties is genuine, voluntary and the same has been arrived at between the parties without any undue influence or pressure.*

v) *As per the statement of the Investigating Officer of this case, the accused of the present FIR are not involved in any other case and except this case, no other criminal case is pending against the accused.*

7. *The complainant Jyoti Bala has no objection if the above said FIR and the above said consequential proceedings are quashed against the accused Mohit Singh, Shailendra Kumar and Savita Devi in view of the compromise entered into between the parties.”*

It is evident that FIR, Annexure P-1, is a fallout of a matrimonial dispute, which has been amicably settled and marriage has been dissolved. Keeping in view the above development, report of the trial court and the judgments of the 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 view that keeping the criminal proceedings alive would not serve any purpose rather it would increase the agony of the parties.

Accordingly, petition is allowed. FIR No.59 dated 15.07.2020 registered under Sections 498-A, 406 of Indian Penal Code, 1860 at Women Police Station, Sector 17, Chandigarh, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

19.09.2022

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(SUVIR SEHGAL)
JUDGE

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