

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(275)

CRM-M-13405-2021 (O&M)

Date of decision:- 13.07.2022

Arun Nishchal and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Namit Gautam, Advocate for the petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab
for State-respondent No.1.

Mr. Rohit Kumar, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-18297-2022

Counsel for the applicants-petitioners submits that the application
has become infructuous.

Dismissed as having been rendered infructuous.

Main case

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.60 dated 01.08.2014, registered for offence under Section 498-A of the Indian Penal Code, 1860, at Police Station Women Cell, Jalandhar City, Jalandhar, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of the compromise dated 21.08.2018, Annexure P-2, arrived at between the parties.

Counsel for the petitioners submits that petitioner No.1 is the husband, petitioners No.2 and 3 are the parents-in-law and petitioners No.4 and 5 are the relatives of petitioner No.1. Counsel submits that marriage of petitioner No.1 was solemnized with complainant-respondent No.2 on 11.06.2011 at Jalandhar and a son was born out of the wedlock. It is submitted that it was the second marriage of complainant-respondent No.2 and her first husband had unfortunately expired. Counsel submits that due to temperamental differences, the marital relations between the parties became strained and they started living separately from February, 2014. Counsel submits that the matrimonial dispute has been compromised vide Annexure P-2, all claims between the parties have been settled and marriage has been dissolved by judgment and decree dated 27.02.2020, Annexure P-3, passed under Section 13-B of the Hindu Marriage Act, 1955. Still further, he submits that the custody of the minor child is with the complainant-respondent No.2 in accordance with the terms of the compromise.

Upon instructions received from SI, Anju Bala, State counsel submits that the trial is pending and the prosecution evidence is underway. He submits that the statement of the complainant has been recorded.

Counsel representing complainant-respondent No.2 has admitted the factum of compromise between the parties and has supported the prayer made in the petition.

Heard counsel for the parties.

Vide order dated 19.04.2021, this Court directed the parties to appear before the Trial Court/Area Magistrate for getting their statements

recorded and a report was called for from the Court concerned 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:-

“The parties were present with their counsel and got recorded their statements in respect to the compromise taken place between the. All the parties are duly identified by their counsels.

As per record the name of the complainant of the present case is Sunita and except her there is no other complainant in this FIR. The name of the accused are 1. Arun Nischal aged about 34 son of Prithvi Raj, 2. Prithvi Raj aged about 68 years son of Deshraj, 3. Veena aged about 65 years w/o Prithvi Raj, 4. Rajesh Kumar aged about 44 years son of Prithvi Raj and 5. Isha aged about 36 years w/o Rajesh Kumar. Proceedings against accused Gulshan has (sic have) been quashed by the Hon'ble High Court on dated 09.08.2018. Except them, there are no other persons nominated by the police as accused. As per record, accused persons are neither involved in any other case nor declared proclaimed offenders in any other criminal case. As present, the case is pending for prosecution evidence.

Both parties have compromised the matter. There is no grudge remains between parties. The compromise is voluntarily, without any pressure or coercion. This Court is of the considered opinion that the compromise has been effected between the complainant and accused and same is voluntary, without any pressure or coercion and is genuine one.”

It is evident from the above that FIR, Annexure P-1, is an offshoot of a matrimonial dispute, which has been settled, all disputes have been amicably resolved and marriage has been dissolved.

In view of the above facts as well as the 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 ***Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322***, this Court is of the view that continuation of the criminal proceedings would be an exercise in futility and the penal proceedings deserve to be set aside.

Accordingly, the petition is allowed. FIR No.60 dated 01.08.2014, registered for offence under Section 498-A of the Indian Penal Code, 1860, at Police Station Women Cell, Jalandhar City, Jalandhar, Annexure P- 1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(SUVIR SEHGAL)
JUDGE

13.07.2022
Kamal

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