

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(282)

CRM-M-11861-2022

Date of Decision:- 23.05.2022

Nakul

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vaibhav Parashar, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana for State-respondent No.1.

Mr. M.K.Bali, Advocate for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

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.434 dated 09.06.2017 registered under Sections 323, 377, 406, 498-A, 506 of Indian Penal Code, 1860 at Police Station Sector-7, District Faridabad (Annexure P-1), on the basis of judgment and decree of divorce dated 21.12.2020 (Annexure P-2).

Counsel for the petitioner that marriage of the petitioner was solemnized with the complainant-respondent No.2 on 01.02.2017 and there is no child out of the wedlock, but due to temperamental differences, they could not pull along and have been living separately since March, 2017. He submits that the marriage has been dissolved by virtue of judgment and decree dated 21.12.2020 (Annexure P-2). By referring to para 16 of the petition, counsel submits that the petitioner has not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana accepts notice on behalf of respondent No.1-

State. Upon instructions from ASI Satbir, she submits that investigation is complete, challan has been presented, charge has been framed and the prosecution evidence is underway.

Mr. Prem Singh, Advocate, who appears on behalf of the complainant-respondent No.2, has filed his 'Vakalatnama, which is taken on record. He has admitted the factum of compromise as well as statement made by counsel for the petitioner.

The parties and Investigating Officer are directed to appear before the Trial Court/Area Magistrate on 18.04.2022 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 23.05.2022.”

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

“(i) As per the order of the Hon'ble High Court dated 21.03.2022 in the case titled “NAKUL Vs. STATE OF HARYANA AND ANOTHER” in CRM-M-11861-2022, the Area Magistrate/Trial Court was directed to record the statements of the parties on 18.04.2022. The complainant namely Smt. Neha and the accused person namely Nakul have appeared before the Court being the Trial Court (Link Court) today on 18.04.2022 for the purpose of recording of their statements.

(ii) The complainant namely Smt. Neha and the accused person namely Nakul have clearly stated that they have entered into the compromise voluntarily and without

any pressure. The accused persons and the complainant were duly identified by their counsels i.e. Sh. Neeraj Kumar Gupta, Advocate for the accused person and Sh. Prem Singh Sorout, Advocate for the complainant. Their Power of Attorneys are also on record. The Aadhar cards of the accused persons along with the complainant have also been placed on record.

(iii) In the present case, as per the statement of ASI Satvir appearing on behalf of the concerned Investigation Officer, at present posted at Police Post, Sector-7, Faridabad, as per the FIR, there were initially five accused persons named in the FIR namely Sadhna, Subhash, Himani, Minku and Nakul but later on during the course of the investigation four accused persons namely Sadhna, Subhash, Himani and Minku were discharged by the concerned ACP namely Aman Yadav on 05.07.2017 in the present FIR. The challan was filed only against one accused person namely Nakul before the Court.

The accused person namely Nakul has appeared before the Court today for the purpose of recording of his statement.

(iv) As per the statement of ASI Satvir appearing on behalf of the concerned Investigation Officer, at present posted at Police Post, Sector-7, Faridabad, no other criminal case is pending against the accused person namely Nakul.

(v) As per the statement of ASI Satvir appearing on behalf of the concerned Investigation Officer, at present posted at Police Post, Sector-7, Faridabad, none has been declared as Proclaimed Offender(s)/absconding in the present FIR No.434 dated 09.06.2017 under Sections 323, 377, 406, 498-A, 506 IPC, P.S. Sector-7, Faridabad.

It was further stated by the ASI Satvir appearing on behalf of the concerned Investigation Officer that Smt. Neha D/o Sh. Netrapal is the only complainant/aggrieved person of the present case. The complainant namely Neha has appeared before the Court today for the purpose of recording of her statement.

(vi) As per the record, the present case is pending at the stage of prosecution evidence.

(vii) This Court is of the considered view that the compromise appears to be genuine and has been reached voluntarily and without any coercion or undue influence between the complainant namely Neha and the accused person namely Nakul and they have made their statements voluntarily and without any threat, inducement, coercion or undue influence.”

It is evident that FIR, Annexure P-1, is an outcome of a matrimonial dispute, which has been settled, and marriage has been dissolved by mutual consent.

In the above backdrop, report of the Trial Court as well as the judgments of the Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujrat and another (2017) 9 SCC 641* and *Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322*, this Court has no hesitation in setting aside the criminal proceedings.

Accordingly, the petition is allowed. FIR No.434 dated 09.06.2017 registered for offences under Sections 323, 377, 406, 498-A and 506 of Indian Penal Code, 1860 at Police Station Sector-7, District Faridabad, Annexure P- 1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

23.05.2022
Kamal

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