

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

277

CRM-M-12210 of 2022
Date of decision:09.11.2022

Tanwinder Singh Karwal and others ... Petitioners

Vs.

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jaideep Verma, Advocate
for the petitioners.

Mr. Jasmanpreet Singh, DAG, Punjab.

Mr. Himanshu Chhabra, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

On 23.03.2022, this Court passed the following order:-

“Prayer in this petition is for quashing of FIR No.0002 dated 31.05.2020 under Sections 406 and 498-A of IPC, 1860, registered at Police Station NRI, Kapurthala, Punjab, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise deed/settlement deed dated 15.01.2022, Annexure P-2.

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

complainant/respondent No.2. He submits that marriage of petitioner No.1 was solemnized with the complainant/respondent No.2 on 07.03.2011 and a son was born out of the wedlock, but due to temperamental differences, parties could not pull along and have been residing separately since September, 2019. He submits that the dispute between the parties has been settled by virtue of compromise deed/settlement deed, Annexure P-2, which is supported with an affidavit, Annexure P-3, executed on behalf of the complainant/respondent No.2 by her father, who is her attorney. He submits that in terms of the compromise, a sum of Rs.4.50 lacs has been agreed to be paid by way of permanent alimony, out of which half the amount has been paid. By making a reference to Para 10 of the petition, counsel submits that the petitioners have not been declared as Proclaimed Offender nor are they involved in any other criminal case in India.

Notice of motion.

On asking of the Court, Mr. Harjasdeep Singh Rana, DAG, Punjab, accepts notice on behalf of respondent No.1-State. Mr. Himanshu Chhabra, Advocate accepts notice on behalf of the complainant/respondent No.2. 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 Illaqa Magistrate/Trial Court on 10.05.2022 or any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Illaqa 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 Illaqa Magistrate/Trial Court be awaited for 01.09.2022.

As petitioner No.1 and respondent No.2 are stated to be residing in Australia, the trial court shall make necessary arrangements and get their statements recorded through the medium of video conferencing. The parties will be identified by their respective counsel representing them before the trial

court.

Judgment and decree of divorce, if passed, be placed on the record before the next date.”

Counsel for the petitioners submits that entire balance permanent alimony has been paid and statements of the parties have been recorded in support of the compromise in deference to the order passed by this Court. By referring to order dated 14.09.2022 (Annexure P-4), counsel submits that marriage has ended in divorce before an Australian Court.

Upon instructions from ASI Gurmel Singh, State counsel submits that although charge has been framed, but no prosecution witness has been examined.

Counsel for the complainant-respondent No.2 besides admitting the factum of compromise, submits that complainant has received the entire permanent alimony and both the parties are residing in Australia.

Heard counsel for the parties.

Pursuant to above reproduced order, report has been received from the Trial Court and its relevant extract is as under:-

“1. With regard to point No.1, it is humbly submitted that three accused are arraigned in the FIR namely Paramjit Kaur, Sukhdev Singh and Tanwinder Singh. Accused Paramjit Kaur and Sukhdev Singh appeared in person in Court for recording their statement in compliance of order dated 23.02.2022. Further, accused Tanwinder Singh got recorded his statement through video conference on whatsapp in compliance of order

of Hon'ble High Court. It is also submitted that report under Section 173 Cr.P.C., is not presented against accused Tanwinder Singh. Further, as per report submitted by concerned SHO, no accused is declared proclaimed person/offender in the present case.

2. *With regard to point no.2, it is humbly submitted that the name of complainant and aggrieved is Suzan. In compliance of order of Hon'ble High Court, the statement of complainant Suzan is recorded through video conference on whatsapp in support of compromise.*

3. *With regard to point no.3, it is humbly submitted that the stage of proceedings in the present case is prosecution evidence.*

4. *With regard to point no.4, it is humbly submitted that compromise effected between the parties is genuine, voluntary and out of free will of all the parties.*

5. *With regard to point no.5, it is humbly submitted that no other criminal case is pending against the accused as per report submitted by concerned SHO SI Rajwinder Singh.”*

It is evident from the above that FIR (Annexure P-1) is an outcome of a matrimonial dispute, which has been amicably settled and the marriage has ended in divorce.

Without commenting upon the legality and validity of the divorce (Annexure P-4), this Court is of the opinion that in view of the

subsequent development as well as judgments of Supreme Court in **B.S.Joshi and others Versus State of Haryana and another (2003) 2 RCR (Criminal) 888** and **Narinder Singh Versus State of Punjab (2014) 6 SCC 466**, criminal proceedings deserve to be set aside.

Accordingly, petition is allowed. FIR No.0002 dated 31.05.2020 under Sections 406 and 498-A of IPC, 1860, registered at Police Station NRI, Kapurthala, Punjab, (Annexure P-1), alongwith all consequential proceedings arising therefrom, are quashed qua the petitioners.

November 09, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes