

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

271

CRM-M-13357-2022

Date of decision:20.07.2022

Mohammad Mustak and another

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Munish Bhardwaj, Advocate for the petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Nikunj Dhawan, Advocate
for respondent No.3.

SUVIR SEHGAL J. (ORAL)

On 30.03.2022, this Court passed the following order:-

“Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.47 dated 27.07.2020, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women Cell, Patiala, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise dated 21.03.2022, Annexure P-2, arrived at between the parties.

Counsel for the petitioners submits that nikah of petitioner No.1 was performed with complainant-respondent No.3 on 18.02.2018 and a daughter was born out of the wedlock. He submits that due to misunderstanding, FIR, Annexure P-1, was lodged by the complainant, which has been settled by virtue of compromise, Annexure P-2, and the parties are staying together.

Notice of motion.

On asking of the Court, Mr. Dhruv Dayal, Senior DAG, Punjab accepts notice of behalf of official respondents No.1 and 2. As per instructions

received by him from H.C., Paramjit Singh, charge has been framed, but prosecution evidence is yet to start. Mr. Nukunj Dhawan, Advocate has put in appearance and accepts notice on behalf of complainant-respondent No.2. He has filed Vakalatnama and has admitted the factum of compromise as well as the statement made by the counsel for the petitioners.

The parties and the Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 22.04.2022 or on 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 the Area Magistrate/Trial Court be awaited for 20.07.2022.”

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

“1) As per the statement of Investigating Officer only Mohammad Mustak and Zubeda have been arraigned and both the accused have (sic been) recorded their statements. Investigating Officer has further submitted that no absconding/proclamation proceedings are pending against the accused persons in the present case.

2. Only Suman is complainant, injured/aggrieved in the present case and she has appeared in the Court for recording her statement in support of the compromise.

3. The present case is pending for prosecution evidence.

4. From the statements of the parties recorded, it appears that the said compromise is

genuine and has been effected voluntarily without any force, coercion or undue influence and out of free will of the parties.

5. As per the statement of Investigating Officer, as per record of Police Station Women, Patiala there is no criminal case pending against the accused persons.”

FIR is a result of a trivial matrimonial dispute. The estranged couple have ironed out their differences and they are residing under one roof alongwith their child.

In view of the report submitted by the trial court and the judgments of the Supreme Court in *Madan Mohan Abbot versus State of Punjab (2008) 4 SCC 582* 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 continuation of the criminal proceedings would be a futile exercise.

Accordingly, petition is allowed. FIR No.47 dated 27.07.2020, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women Cell, Patiala, Annexure P-1, and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

20.07.2022
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(SUVIR SEHGAL)
JUDGE

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