

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

135+281

CRM-M-13583 of 2022 (O&M)

Date of decision:12.09.2022

Mohd. Munir

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Abdul Aziz, Advocate
for the petitioner.

Mr. Vipin Pal Yadav, Addl.A.G.Punjab.

Mr. Supneet Singh, Advocate for
Mr. Pradeep Singh, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM No.33880 of 2022

Application is allowed as prayed for.

Talaq-E-Bayen (Talaknama) dated 07.02.2022 is taken on
record as Annexure P-3.

CRM-M-13583 of 2022

On 31.03.2022, this Court passed the following order:-

*“Prayer in this petition is for quashing of FIR No.14
dated 22.01.2020 under Sections 498-A and 406 of IPC, 1860,
registered at Police Station City-2, Malerkotla, District*

Malerkotla, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise dated 04.03.2022, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that Nikah of the petitioner was performed with the complainant/respondent No.2 five years ago. However, the matrimonial dispute arose between the parties and FIR, Annexure P-1, was registered at the instance of complainant/respondent No.2. Counsel submits that the marriage between the parties has been dissolved by way of Talak Nama (Talak-E-Bayen) as per Muslim Law (Shariyat) on 07.02.2022. By referring to the affidavit of the petitioner, counsel submits that the petitioner has not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. Dhruv Dayal, Senior DAG, Punjab, accepts notice on behalf of respondent No.1-State. As per instructions received by him from ASI Harpal Singh, matter is under investigation. Mr. Pradeep Singh, Advocate accepts notice on behalf of the complainant/respondent No.2 and has filed his Power of Attorney in Court, which is taken on record. He admits 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 Area Magistrate/Trial Court on 12.05.2022 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 Area Magistrate/Trial Court be awaited for 12.09.2022.

Judgment and decree of divorce passed by mutual consent be placed on record before the next date.”

By referring to Talaq-E-Bayen, Annexure P-3, counsel for the petitioner submits that parties have divorced by mutual consent.

Heard counsel for the parties.

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

“1. There is only one accused namely Mohd. Munir arraigned in the FIR and he appeared today i.e. On 12.05.2021 (sic 2022) for recording his statement in compliance of order dated 31.03.2022 passed by the Hon'ble High Court. As per statement of accused and I.O., accused has never been declared proclaimed offender.

2. The name of complainant is Saima, wife of Mohd. Munir daughter of Abdul Sattar, resident of Khushal Basti, Eidgah Road, Malerkotla, District Malerkotla and she appeared today i.e on 12.05.2022 for recording of her statement in support of compromise.

3. As per record, only FIR is received yet and challan has not been presented.

4. As per statements of parties, the compromise is genuine, voluntarily and out of their free will.

5. As per statement of accused, an application under Section 125 Cr.P.C., is pending against him which is filed by complainant.”

It is evident that FIR (Annexure P-1) is an outcome of a matrimonial dispute, which has been settled and parties have ended the relationship with divorce.

In view of the above developments, report of the Trial Court and judgment of Supreme Court in **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Versus State of Gujarat and another (2017) 9 SCC 641**, this Court is of the opinion that continuation of criminal proceedings would be a futile exercise.

Accordingly, the petition is allowed. FIR No.14 dated 22.01.2020 under Sections 498-A and 406 of IPC, 1860, registered at Police Station City-2, Malerkotla, District Malerkotla (Annexure P-1) alongwith all consequential proceedings arising therefrom, are quashed qua the petitioner.

September 12, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes