

CRM-M-13599 of 2022 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-13599 of 2022 (O&M)
Date of decision:12.09.2022

Amitpal Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Atul Jain, Advocate
for the petitioner.

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

Mr. Anmol Jindal, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM No.33838 of 2022

Application is allowed as prayed for.

Judgment and decree dated 16.08.2022 passed under Section
13-B of Hindu Marriage Act, 1955 is taken on record as Annexure P-3.

CRM-M-13599 of 2022

On 31.03.2022, this Court passed the following order:-

*“Prayer in this petition is for quashing of FIR No.124
dated 02.07.2021 under Sections 406 and 498-A of IPC, 1860,
registered at Police Station City Jagraon, District Ludhiana,
Annexure P-1, along with all consequential proceedings
arising therefrom, on the basis of compromise-cum-divorce*

deed dated 15.01.2022, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that marriage of the petitioner was solemnized with complainant/respondent No.2 on 05.08.2018 and there is no child out of the wedlock. He submits that due to temperamental differences between them, they have been staying separately since May, 2020 and all differences have been resolved by virtue of compromise, Annexure P-2. Counsel submits that in terms of the compromise, a petition has been filed under Section 13-B of the Hindu Marriage Act, 1955, seeking divorce by mutual consent. As per his instructions, out of the permanent alimony of Rs.4 lacs, half of the amount has been paid at the time of recording of the first motion and the balance is to be paid at the time of recording of the second motion on 26.07.2022. By referring to the affidavit filed in support of the petition, 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 his instructions from ASI Parminder Kaur, the matter is under investigation. Mr. Anmol Jindal, Advocate accepts notice on behalf of the complainant/respondent No.2 and has filed his

Vakalatnama 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”

Counsel for the petitioner submits that petitioner has paid the entire permanent alimony of Rs.4.00 lacs to the complainant-respondent No.2 and the marriage has been dissolved by judgment and decree, Annexure P-3.

State counsel has filed the status report by way of an affidavit of Deputy Superintendent of Police, Jagraon, District Ludhiana (Rural) on behalf of respondent No.1-State, which is taken on record. As per instructions received by him from ASI Atma Ram, challan has been presented on conclusion of investigation.

Counsel for the complainant-respondent No.2 has admitted the receipt of entire permanent alimony as well as the fact that parties have divorced each other.

Heard counsel for the parties.

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

- “1. As per statements of the parties and investigating officer, there is one arrayed accused namely Amitpal Singh in the present case and no accused is declared proclaimed offender in the present case.*
- 2. Simran Kaur is the complainant and injured/aggrieved in the present case and she recorded her statement with regard to compromise.*
- 3. The case is fixed for 19.07.2022 for issuing notice to accused.*

4. *The compromise effected between the parties is genuine, voluntary and out of free will of the parties.*
5. *As per the statement of the parties, no other criminal case is pending against the accused.”*

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

In view of the above developments, report of the Trial Court and judgments of Supreme Court in **Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322** and **B.S.Joshi and others Vs. State of Haryana and another (2003) 4 SCC 675**, this Court is of the opinion that continuation of criminal proceedings would be a futile exercise.

Accordingly, the petition is allowed. FIR No.124 dated 02.07.2021 under Sections 406 and 498-A of IPC registered at Police Station City Jagraon, District Ludhiana, (Annexure P-1) alongwith all consequential proceedings arising therefrom, are quashed qua the petitioner.

September 12, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>