

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(131+270)

CRM-M-15783-2022 (O&M)
Date of Decision:- 30.08.2022

Bhupinder Singh and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manjinder Singh Saini, Advocate for the petitioners.

Mr. Mohit Chaudhary, AAG, Punjab for State-respondent No.1.

Mr. Vishal Sharma (Vasudeva), Advocate
for complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

CRM-31856-2022

Application is allowed as prayed for.

Judgment and decree dated 04.07.2022 passed under Section
13-B of the Hindu Marriage Act, 1955 is taken on record as Annexure P-6.

Main case

On 19.04.2022, this Court passed the following order:-

“This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the case FIR No.0016 dated 18.02.2020, registered under Sections 406, 498 (sic 498-A) of IPC, 1860 at Police Station Chabbewal, Hoshiarpur, Punjab (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2) arrived at between the parties.

Counsel for the petitioners submits that the marriage of petitioner No.1 was solemnized with complainant-respondent No.2 on 16.05.2017 and a child

was born out of the wedlock but due to temperamental difference between the parties they could not pull along and have been residing separately. He further submits that the matrimonial dispute between the parties has been settled by virtue of compromise, Annexure P-2 and a petition seeking divorce by mutual consent has been filed under Section 13-B of the Hindu Marriage Act, 1955, first motion has been recorded and second motion is to be recorded in the first week of June, 2022. By referring to the terms of the compromise, counsel submits that against the agreed amount of permanent alimony of Rs. 7 Lacs, the petitioner has paid half of the amount and the remaining half to be paid at the time of recording of the second motion.

Notice of motion.

On asking of the Court, Mr. A.S. Gill, Senior DAG, Punjab, accepts notice on behalf of State-respondent No.1. Upon instructions from ASI Rajwinder Singh, he submits that upon conclusion of investigation, final report has been presented and charge has been framed against the accused-petitioner.

Mr. Vishal Sharma (Vasudeva), Advocate, has appeared and has filed his Vakalatnama on behalf of the complainant-respondent No.2, which is taken on record. He has admitted the factum of compromise and does not controvert the statement of counsel for the petitioner.

The parties and Investigating Officer are directed to appear before the Area Magistrate/trial Court on 13.05.2022 or on any date thereafter as fixed by the Magistrate, for getting their statements recorded with regard to the compromise. The Area Magistrate/trial Court shall submit the 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 30.08.2022.”

By referring to the judgment and decree, Annexure P-6, counsel for the petitioners submits that marriage has been dissolved by mutual consent and the balance amount of permanent alimony has been paid.

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

“(1) the number of persons 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;

As per the statement of Investigating Officer, there are three accused namely Bhupinder Singh, Gurdeep Singh and Sarabjit Kaur. All these accused appeared before the Court and got recorded their statements. All the accused are on bail and none of them is absconding/P.O. in this 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;

As per the statement of Investigating Officer, Amarjit Kaur is only complainant, injured/aggrieved and she appeared before this Court and got recorded her statement in support of compromise.

(3) The state of trial/proceedings;

The case was at the stage of prosecution evidence.

(4) If the compromise is genuine, voluntary and out of free will of the parties;

The compromise arrived at between the parties is genuine, voluntarily and out of their free Will.

(5) Whether any other criminal case is pending against the accused.

As per report of Investigating Officer, no other criminal case is pending against the present accused.”

It is evident from the above that FIR, Annexure P-1, is an outcome of a matrimonial dispute, which has been settled, marriage has been dissolved and the entire amount of permanent alimony has been paid.

In view of the above development, report of the Trial Court and the judgments of Supreme Court in ***Gold Quest International Private Limited Versus The State of Tamil Nadu and others (2014) 15 SCC 235***

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 prolonging the criminal proceedings would be a futile exercise.

Accordingly, the petition is allowed. FIR No.0016 dated
18.02.2020, registered for offences under Sections 406 and 498-A of the
Indian Penal Code, 1860, at Police Station Chabbewal, Hoshiarpur, Punjab,
Annexure P-1, along with all subsequent proceedings arising therefrom, are
quashed qua the petitioners.

(SUVIR SEHGAL)
JUDGE

30.08.2022
Kamal

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